

No. 8781

United States
Circuit Court of Appeals
For the Ninth Circuit.

Vol 1
2097

su Vol
2098

JESSE H. SHREVE, and ARCHIE C. SHREVE,
Appellants,

vs.

UNITED STATES OF AMERICA,
Appellee.

Transcript of Record

In Two Volumes

VOLUME I

Pages 1 to 480

Upon Appeal from the District Court of the United
States for the District of Arizona.

FILED

AUG 24 1938

No. 8781

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Circuit Court of Appeals

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JESSE H. SHREVE, and ARCHIE C. SHREVE,
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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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ATTORNEYS OF RECORD

LESLIE C. HARDY, Esq.,
Professional Building,
Phoenix, Arizona,
Attorney for Appellants.

FRANK E. FLYNN, Esq.,
United States Attorney,
Old Post Office Bldg.,
Phoenix, Arizona,
Attorney for Appellee. [3*]

In the District Court of the United States
for the District of Arizona.

C-6863 Tucson

UNITED STATES OF AMERICA,
Plaintiff,

vs.

JESSE H. SHREVE, ARCHIE C. SHREVE,
DANIEL H. SHREVE, GLEN O. PERKINS
and W. C. EVANS,
Defendants.

INDICTMENT

(Vio. 18 U. S. C. 338, 88)

United States of America
District of Arizona—ss.

At the November, 1933, Term of the District
Court of the United States for the District of Ari-

*Page numbering appearing at the foot of page of original certified
Transcript of Record.

zona, the Grand Jurors of the United States, within and for the District aforesaid, having been duly summoned, impaneled, sworn, and charged at the term aforesaid, upon their oath present:

That prior to the dates on which the several letters, statements and writings hereinafter referred to were placed and caused to be placed in the United States Post Office, as hereinafter in the several counts of this indictment alleged, Jesse H. Shreve, Archie C. Shreve, Daniel H. Shreve, Glen O. Perkins and W. C. Evans, hereinafter called the defendants, whose more full, true, and correct names are to said Grand Jurors unknown, had devised and intended to devise a scheme and artifice for obtaining money from Fred Sweetland, O. Hohenstein, Henry Baker, and other persons to said Grand Jurors unknown, all of whom are hereinafter referred to as the aforesaid persons, by means of false pretenses, representations and promises, which said scheme and artifice was substantially as follows: [4]

That the defendants would organize and incorporate and cause to be organized and incorporated, under the laws of the State of Arizona, a corporation to be known as the Security Building and Loan Association and would obtain, maintain and exercise complete control of said Association; that the defendants would cause said Association to engage in the business of receiving deposits of money from any and all persons who might be induced to deposit money with said Association, issuing so-called pass-books and so-called investment certificates

therefor, contracting to pay interest thereon, and investing, loaning and otherwise disposing of such money in such manner as the defendants might determine; that the defendants would invite and solicit and cause said Association to invite and solicit the aforesaid persons to deposit money with said Association and to receive therefor its so-called pass-books and so-called investment certificates; and that, for the purpose of obtaining such money and inducing the aforesaid persons to deposit the same with said Association, the defendants would make and cause to be made the pretenses, representations and promises hereinafter set forth, all of which would be and were false and untrue, and all of which would be and were then and there by the defendants and each of them well known to be false and untrue.

That the defendants would falsely pretend and represent to the aforesaid persons that their money could be safely and profitably invested by depositing the same with said Association and receiving therefor its so-called pass-books and so-called investment certificates, whereas, in truth and in fact, as the defendants then and there well knew, such money could not and would not be safely or profitably invested by so depositing the same, but such money so deposited would be and was at all times unsafely and unprofitably invested. [5]

That the defendants would falsely pretend and represent to the aforesaid persons and would falsely promise them, that all money deposited with said Association was and would be protected and the de-

positors thereof secured against loss by the guaranteed capital of said Association and by first mortgages on Arizona real estate, whereas, in truth and in fact, as the defendants then and there well knew, said Association never would and never did have any guaranteed capital, and no money deposited with said Association would be or ever was protected, and no depositor thereof would be or ever was secured against loss, by any guaranteed or other capital, or by any first or other mortgage or mortgages, or otherwise, but all such money and all such depositors would be and were at all times wholly unprotected and unsecured.

That the defendants would falsely pretend and represent to the aforesaid persons, and would falsely promise them, that said Association would pay six per cent per annum interest on all money deposited with said Association, whereas, in truth and in fact, as the defendants then and there well knew, as to the greater part of all money so deposited, said Association never would and never did pay any interest thereon, and would be and was at all times wholly unable to pay any such interest.

That the defendants would falsely pretend and represent to the aforesaid persons, and would falsely promise them, that any and all money deposited with said Association could be withdrawn, in whole or in part, at any time, by the depositor or depositors thereof, whereas, in truth and in fact, as the defendants then and there well knew, the greater part of all money so deposited never could be with-

drawn, either in whole or in part, by any such depositor or depositors, and said Association would be and was at all times wholly unable to repay said money or any part thereof to such depositor or depositors. [6]

That the defendants would falsely pretend and represent to the aforesaid persons, and would falsely promise them, that all money deposited with said Association was and would be by said Association safely and profitably invested, whereas, in truth and in fact, as the defendants then and there well knew, the greater part of all money so deposited would not be and never was safely or profitably invested, but would be and was at all times unsafely and unprofitably invested and disposed of.

That the defendants would falsely pretend and represent to the aforesaid persons and would falsely promise them, that all money deposited with said Association was and would be by said Association invested in sound first mortgages on improved real estate, carefully selected, whereas, in truth and in fact, as the defendants then and there well knew, the greater part of such money would not be and never was so invested, but would be and was at all times invested in mortgages, which, in amount, would and did at all times greatly exceed the actual value of the property covered thereby, and, for that reason, would be and were at all times uncollectible and practically worthless.

That the defendants would falsely pretend and represent to the aforesaid persons that Three Hun-

dred Thousand (\$300,000) Dollars of the capital stock of said Association had been paid in, whereas, in truth and in fact, as the defendants then and there well knew, the total amount of the paid-in capital stock of said Association would not and never did exceed the sum of Forty-five Thousand (\$45,000) Dollars.

That by means of said false pretenses, representations and promises, so made and caused to be made by the defendants, as aforesaid, large sums of money would be obtained from the aforesaid persons and by them deposited with said Association.

And the Grand Jurors aforesaid, on their oath aforesaid, do further present that, having so devised and intended to devise said scheme and artifice, as aforesaid, the defendants, for the purpose of executing said scheme and artifice, did, on or about the 17th day of January, 1931, in the District of Arizona, and [7] within the jurisdiction of this Court, unlawfully, knowingly, wilfully and feloniously place and cause to be placed in the United States Post Office at Tucson, Arizona, to be sent and delivered by the Post Office Establishment of the United States, according to the direction thereon, a certain letter in a postpaid envelope addressed to:

Mr. Fred Sweetland
Route 2 Box 400A
Tucson, Arizona,

which said envelope then and there contained and had enclosed therein the following:

(a) A certain one-page letter dated January 17, 1931, which letter was and is in words and figures following, to-wit:

“Thrift—6%—Security—Independence
Security Building and Loan Association
107 South Scott Street
Tucson, Arizona

Offices: Phoenix, Tucson
January 17, 1931

To you, our Friend and Customer:

It is our pleasure to report to you that our Association made the remarkable gain of over one hundred per cent during 1930. The enclosed statement represents true stability and absolute security. We feel you will be pleased with it and proud to show it to your friends.

You already know that this Association pays 6% on Pass Book Savings, and also that you may deposit or withdraw at any time.

Your funds deposited with us are loaned only on monthly payment first mortgages on homes, which is the safest security to be had. This fact, coupled with our constant effort toward the maximum of efficiency and service, has been the secret of the success of our Association.

We sincerely appreciate your patronage and solicit your friendly cooperation in making 1931 a bigger and better year.

Jesse H. Shreve, et al.,

Please do not hesitate to call upon us whenever we can serve you.

Yours very truly, [8]

SECURITY BLDG. & LOAN
ASSOCIATION

By JOHN C. HOBBS

Vice-President

JCH/LF”

(b) A certain one-page sheet in words and figures as follows, to-wit:

STATEMENT OF CONDITION

as of

December 31, 1930

Thrift—6%—Security—Independence

Security Building and Loan Association

Tucson: 107 South Scott Street

Assets

Loans Secured by First Mortgages		
on Arizona Real Estate.....	\$322,071.92	
Less Amounts Repaid.....	128,142.46	\$193,929.46
Loans Secured by Certificates of		
Association		739.24
Cash on hand and in Bank.....		12,812.38
Items in Process of Collection.....		3,016.00
Furniture, Fixtures, Equipment		
and Supplies		6,622.35
Prepaid Insurance		66.67
Other Assets		501.50
Real Estate Owned.....		none
		<hr/>
		\$217,687.60

Liabilities

Guarantee Capital Paid In.....	\$ 45,000.00
Surplus and Undivided Profits.....	7,719.43
Investment Certificates—	
Pass Book Shares.....	\$ 97,349.59
Installment Certificates	2,736.32
Full Paid Certificates.....	63,700.00
	[9]
Total Deposits	163,785.91
Loan Commitments	1,182.26
Borrowed Money	none
	\$217,687.60

6%

Pass Book Accounts

Accounts opened with \$1.00 or more. Deposits in any amount accepted at any time. Withdrawals of all or part without notice.

No Entrance Fees, Fines, Forfeitures or Penalties

Installment Certificates

Pay in \$5.00 a month for 133 months—
withdraw \$1000.00

Pay in \$6.00 a month for 120 months—
withdraw \$1000.00

Pay in \$10.00 a month for 80 months—
withdraw \$1000.00

No Forfeiture of Your Principal if Withdrawn Prior to Maturity

Full Paid Certificates

Sold in units of \$100.00. Interest checks quarterly or semi-annually. Interest monthly if desired on amounts of \$1000.00 or more.

Prime Investments for Banks, Insurance
Companies, Trustees, etc.

Prepaid Certificates

\$37.00 paid in now will return the depositor
\$100.00 in 15 years, \$74.00 will return \$200.00,
etc.

Unsurpassed for the Creation of an Education
Fund, or an Old Age Income

1931

The 100th anniversary of the inception of
Building and Loan finds more than 13,000 asso-
ciations in successful operation, with total re-
sources of Nine Billion Dollars.

One person in every ten is a depositor, with
an average saving of \$717.00.

1931''

Against the peace and dignity of the United States
of America, and contrary to the form of the statute
of the said United States of America in such case
made and provided. [10]

Second Count

And the Grand Jurors aforesaid, on their oath
aforesaid, do further present that Jesse H. Shreve,
Archie C. Shreve, Daniel H. Shreve, Glen O. Per-
kins and W. C. Evans, the identical parties named
in the first count of this indictment, hereinafter
called the defendants, so having devised the scheme
and artifice described in the first count of this in-
dictment, the allegations concerning which in said
first count are hereby incorporated by reference

Duplicate

By R. F. Watt

Total \$ 5 84

Old Bal.	385.11
Deposit	5.84
New Bal.	390.95''

Against the peace and dignity of the United States of America, and contrary to the form of the statute of the said United States of America in such case made and provided. [12]

Third Count

And the Grand Jurors aforesaid, on their oath aforesaid, do further present that Jesse H. Shreve, Archie C. Shreve, Daniel H. Shreve, Glen O. Perkins and W. C. Evans, the identical parties named in the first count of this indictment, hereinafter called the defendants, so having devised the scheme and artifice described in the said first count of this indictment, the allegations concerning which in said first count are hereby incorporated by reference thereto in this count as fully and with like effect for all purposes as though the same were here reiterated and repeated, on or about the 24th day of June 1931, in the District of Arizona and within the jurisdiction of this Court, for the purpose of executing said scheme and artifice, did unlawfully, knowingly, wilfully and feloniously place and cause to be placed in the United States Post Office at Mesa, Arizona, to be sent and delivered by the Post Office Establishment of the United States, according

to the direction thereon, a certain letter in a post-paid envelope addressed to:

“Mr. Henry Baker,
Mesa, Ariz.”

which said envelope then and there contained and had enclosed therein the following:

A certain one-page letter, which letter was and is in words and figures following, to-wit:

“Thrift—6%—Security—Independence
Security Building and Loan Association
117 North Central Avenue
Phoenix, Arizona

Offices:

Phoenix
Tucson

To Depositors:

We wish you to know that our office in Mesa has been moved, for the summer, from 12 So. Macdonald to the Chamber of Commerce. Mrs. A. J. Hayes, of the Chamber of Commerce, is in charge, taking care of the business while Mr. Shumway is at Prescott for the summer.

Those who have not met Mrs. Hayes, we are sure, will be glad to meet her for she will give you our usual courteous service. [13]

July first is an ideal time to transfer funds to the Security. If you have funds drawing less than six percent, Mrs. Hayes will be glad to take care of the transfer for you. If you have friends that you think would like the Security plan, we will appreciate it very much

if you would suggest to them that they call on us.

Remember, always, the Security serves you with an excellent service—safe and paying you six percent.

Very truly yours,

D. H. SHREVE,

President

DHS:G''

Against the peace and dignity of the United States of America, and contrary to the form of the statute of the said United States of America in such case made and provided. [14]

Fourth Count

And the Grand Jurors aforesaid, on their oath aforesaid, do further present that prior to the dates on which the several letters, statements and writings hereinafter referred to were placed and caused to be placed in the United States Post Office, as hereinafter in the several counts of this indictment alleged, Jesse H. Shreve, Archie C. Shreve, Daniel H. Shreve, Glen O. Perkins and W. C. Evans, the identical parties named in the first count of this indictment, hereinafter called the defendants, had devised and intended to devise a scheme and artifice for obtaining money and property from Wesley Palmer, R. R. Guthrie, O. H. Robson, Mary Robson, Helen Hannon, Harry Nelson, Anna B. Nelson, Alice H. Davis, Lula Gatlin and other persons to said Grand Jurors unknown, all of whom are here-

inafter referred to as the aforesaid persons, by means of false pretenses, representations and promises, which said scheme and artifice was substantially as follows:

That the defendants would organize and incorporate and cause to be organized and incorporated, under the laws of the State of Arizona, a corporation to be known as the Century Investment Trust, and would obtain, maintain and exercise complete control of said corporation and of another corporation theretofore organized and incorporated under the laws of said State and known as the Arizona Holding Corporation; that the said Century Investment Trust would have a capital stock of one million (1,000,000) shares, without par value; that the defendants would cause the said Century Investment Trust to issue large amounts of its said stock to the defendants and to the said Arizona Holding Corporation, and would cause the said Century Investment Trust to retain some of said stock in its treasury; that the defendants would sell and dispose of, and would cause the said Century Investment Trust and the said Arizona Holding Corporation to sell and dispose of, large amounts of said stock to any and all persons who might be induced to purchase and pay for the same; that the defendants would invite and solicit, and would cause the said Century Investment Trust and the said Arizona Holding [15] Corporation to invite and solicit, the aforesaid persons to purchase said stock from the defendants, from the said Century Investment

Trust and from the said Arizona Holding Corporation and to pay for the same, either in money or in property; and that, for the purpose of obtaining such money and property in exchange for said stock, the defendants would make and cause to be made the pretenses, representations and promises hereinafter set forth, all of which would be and were false and untrue, and all of which would be and were then and there by the defendants and each of them well known to be false and untrue.

That the defendants would falsely pretend and represent to the aforesaid persons that the said Century Investment Trust was in a solvent condition financially, whereas, in truth and in fact, as the defendants then and there well knew, the said Century Investment Trust would not be and never was in a solvent condition financially, but would be and was at all times in an insolvent and failing condition.

That the defendants would falsely pretend and represent to the aforesaid persons that the said Century Investment Trust had done and was doing a large and profitable business, whereas, in truth and in fact, as the defendants then and there well knew, the said Century Investment Trust never had done, never would do and never did a large or profitable business, and had, in fact, done and would do very little business of any kind, and all such business had been, would be and was at all times small and unprofitable.

That the defendants would falsely pretend and represent to the aforesaid persons, and would falsely

promise them, that the said Century Investment Trust had and would have net earnings and net income out of which dividends could and would be paid to its stockholders, whereas, in truth and in fact, as the defendants then and there well know, the said Century Investment Trust never had and never would or did have any net earnings or any net income, and no dividends could or would be or ever were paid out of any such earnings or income. [16]

That the defendants would falsely pretend and represent to the aforesaid persons that the dividends actually paid by the said Century Investment Trust to its stockholders had been and were paid out of the net earnings and net income of the said Century Investment Trust, whereas, in truth and in fact, as the defendants then and there well know, such dividends had not been, would not be and were not paid out of any earnings or any income, of the said Century Investment Trust, but all such dividends had been, would be and were paid out of funds which the defendants had supplied and caused to be supplied to the said Century Investment Trust for that purpose, and had been, would be and were so paid for the purpose of inducing the aforesaid persons to believe that the said Century Investment Trust did and would have net earnings and net income out of which other and further dividends could and would be paid, which belief, as the defendants then and there well knew, was wholly false and unfounded.

That by means of said false pretenses, representations and promises, so made and caused to be made by the defendants as aforesaid, large sums of money and large amount of property would be obtained from the aforesaid persons in exchange for the stock of the said Century Investment Trust.

And the Grand Jurors aforesaid, on their oath aforesaid, do further present that, having so devised and intended to devise said scheme and artifice, as aforesaid, the defendants, for the purpose of executing said scheme and artifice, did, on or about the 5th day of January, 1931, in the District of Arizona, and within the jurisdiction of this Court, unlawfully, knowingly, wilfully and feloniously place and cause to be placed in the United States Post Office at Phoenix, Arizona, to be sent and delivered by the Post Office Establishment of the United States, according to the direction thereon, a certain letter in a postpaid envelope addressed to:

[17]

“Mr. Wesley Palmer,
R. F. D. #1,
Mesa, Arizona.”

which said envelope then and there contained and had enclosed therein the following:

A certain one-page letter dated January 2, 1931, which letter was and is in words and figures following, to-wit:

“Century Investment Trust
Phoenix, Arizona
January 2, 1931.

Mr. Wesley Palmer,
R. F. D. #1,
Mesa, Arizona.

Dear Mr. Palmer:

Herewith we hand you dividend check on your Preferred Stock of the Century Investment Trust.

We are very happy to be able to pay you this dividend in the face of financial conditions over the country.

The Century Investment Trust has had a good year and the Directors believe that our loyal stockholders have been of great help.

As you know one of our sources of income is through the Security Building and Loan Association, which has made an excellent growth during the past year. We ask that you extend to the Security Building and Loan Association a helping hand, and this may be done by depositing your funds or by encouraging your friends and acquaintances to open accounts. We write all lines of insurance, and if you have not already placed yours with the Company we would be glad to handle it for you.

Wishing you a happy and prosperous New Year, we are,

Sincerely yours,

CENTURY INVESTMENT TRUST
By GLEN O. PERKINS

Encl. 1.”

Against the peace and dignity of the United States of America, and contrary to the form of the statute of the said United States of America in such case made and provided. [18]

Fifth Count

And the Grand Jurors aforesaid, on their oath aforesaid, do further present that Jesse H. Shreve, Archie C. Shreve, Daniel H. Shreve, Glen O. Perkins and W. C. Evans, the identical parties named in the fourth count of this indictment, hereinafter called the defendants, so having devised the scheme and artifice described in the said fourth count of this indictment, the allegations concerning which in said fourth count are hereby incorporated by reference thereto in this count as fully and with like effect for all purposes as though the same were here reiterated and repeated, on or about the 14th day of April, 1931, in the District of Arizona and within the jurisdiction of this Court, for the purpose of executing said scheme and artifice, did unlawfully, knowingly, wilfully and feloniously cause to be delivered by mail and by the Post Office Establishment of the United States, according to the direction thereon, a certain letter in a postpaid envelope addressed to R. R. Guthrie at Tucson, Arizona, which letter was and is in words and figures following, to-wit:

“Century Investment Trust

Phoenix, Arizona

April 14, 1931

To Stockholders:

Enclosed you will find your dividend check for the first quarter of 1931.

The checks are fifteen days late for which we are sorry, but we feel that every stockholder will appreciate the checks in face of general conditions, when but few companies are able to pay dividends.

It is a source of much satisfaction to know that the stockholders of the Century Investment Trust are loyally assisting the Company. Many are using the Security Building and Loan Association, thus helping to build up this splendid association. Many of you have given us insurance and have directed your friends to us. [19]

We have installed a regular Insurance Department, writing all lines of insurance such as fire, automobile, life, burglary, etc. With the able assistance of every stockholder, this department can be made to pay the entire overhead of the Company.

Thanking you for your loyalty and wishing you success, we are

Yours very truly,

CENTURY INVESTMENT TRUST

By D. H. SHREVE"

Against the peace and dignity of the United States of America, and contrary to the form of the statute of the United States of America in such case made and provided.

Sixth Count

And the Grand Jurors aforesaid, on their oath aforesaid, do further present that Jesse H. Shreve,

Archie C. Shreve, Daniel H. Shreve, Glen O. Perkins and W. C. Evans, the identical parties named in the fourth count of this indictment, hereinafter called the defendants, so having devised the scheme and artifice described in the said fourth count of this indictment, the allegations concerning which in said fourth count are hereby incorporated by reference thereto in this count as fully and with like effect for all purposes as though the same were here reiterated and repeated, on or about the 2nd day of January, 1931, in the District of Arizona and within the jurisdiction of this Court, for the purpose of executing said scheme and artifice, did unlawfully, knowingly, wilfully and feloniously cause to be delivered by mail and by the Post Office Establishment of the United States, according to the direction thereon, a certain letter in a postpaid envelope addressed to O. H. Robson and Mary Robson, at Tucson, Arizona, [20] which letter was and is in words and figures following, to-wit:

“Century Investment Trust

Phoenix, Arizona,

January 2, 1931.

Mr. O. H. Robson and

Mrs. Mary Robson,

P. O. Box 2021,

Tucson, Arizona.

Dear Sir and Madam:

Herewith we hand you dividend check on your Preferred Stock of the Century Investment Trust.

We are very happy to be able to pay you this dividend in the face of financial conditions over the country.

The Century Investment Trust has had a good year and the Directors believe that our loyal stockholders have been of great help.

As you know one of our sources of income is through the Security Building and Loan Association, which has made an excellent growth during the past year. We ask that you extend to the Security Building and Loan Association a helping hand, and this may be done by depositing your funds or by encouraging your friends and acquaintances to open accounts. We write all lines of insurance, and if you have not already placed yours with the Company we would be glad to handle it for you.

Wishing you a happy and prosperous New Year, we are

Sincerely yours,

CENTURY INVESTMENT TRUST

By GLEN O. PERKINS

Encl. 1."

Against the peace and dignity of the United States of America, and contrary to the form of the statute of the said United States of America in such case made and provided.

Seventh Count

And the Grand Jurors aforesaid, on their oath aforesaid, do further present that Jesse H. Shreve,

Archie C. Shreve, Daniel H. Shreve, Glen O. Perkins and W. C. Evans, the identical parties named in the fourth count of this indictment, hereinafter called the defendants, so having devised the scheme and artifice described in the said fourth count of this indictment, the allegations concerning which in said fourth count are hereby incorporated by reference thereto in this count as fully and with [21] like effect for all purposes as though the same were here reiterated and repeated, on or about the 14th day of April, 1931, in the District of Arizona and within the jurisdiction of this Court, for the purpose of executing said scheme and artifice, did unlawfully, knowingly, wilfully and feloniously cause to be delivered by mail and by the Post Office Establishment of the United States, according to the direction thereon, a certain letter in a postpaid envelope addressed to Helen Hannon, at Tucson, Arizona, which said letter was and is in words and figures following, to-wit:

“Century Investment Trust
Phoenix, Arizona,
April 14, 1931.

To Stockholders:

Enclosed you will find your dividend check for the first quarter of 1931.

The checks are fifteen days late for which we are sorry, but we feel that every stockholder will appreciate the checks in face of general

conditions, when but few companies are able to pay dividends.

It is a source of much satisfaction to know that the stockholders of the Century Investment Trust are loyally assisting the Company.

Many are using the Security Building and Loan Association, thus helping to build up this splendid association. Many of you have given us insurance and have directed your friends to us.

We have installed a regular Insurance Department, writing all lines of insurance such as fire, automobile, life, burglary, etc., with the able assistance of every stockholder, this department can be made to pay the entire overhead of the Company.

Thanking you for your loyalty and wishing you success, we are

Yours very truly,
CENTURY INVESTMENT TRUST
By D. H. SHREVE"

Against the peace and dignity of the United States of America [22] and contrary to the form of the statute of the said United States of America in such case made and provided.

Eighth Count

And the Grand Jurors aforesaid, on their oath aforesaid, do further present that Jesse H. Shreve, Archie C. Shreve, Daniel H. Shreve, Glen O. Per-

kins and W. C. Evans, the identical parties named in the fourth count of this indictment, hereinafter called the defendants, so having devised the scheme and artifice described in the said fourth count of this indictment, the allegations concerning which in said fourth count are hereby incorporated by reference thereto in this count as fully and with like effect for all purposes as though the same were here reiterated and repeated, on or about the 5th day of January, 1931, in the District of Arizona and within the jurisdiction of this Court, for the purpose of executing said scheme and artifice, did unlawfully, knowingly, wilfully and feloniously place and cause to be placed in the United States Post Office at Tucson, Arizona, to be sent and delivered by the Post Office Establishment of the United States, according to the direction thereon, a certain letter in a postpaid envelope addressed to:

“Mr. Harry Nelson and
Mrs. Anna B. Nelson,
121 W. 17th St.,
Tucson, Arizona.”

which said envelope then and there contained and had enclosed therein the following:

(a) A certain one page letter dated January 2, 1931, which letter was and is in words and figures following, to-wit:

Century Investment Trust
Phoenix, Arizona
January 2, 1931.

Mr. Harry Nelson and
Mrs. Anna B. Nelson,
121 W. 17th. Street,
Tucson, Arizona.

Dear Mr. & Mrs. Nelson: [23]

Herewith we hand you dividend check on your Preferred Stock of the Century Investment Trust.

We are very happy to be able to pay you this dividend in the face of financial conditions over the country.

The Century Investment Trust has had a good year and the Directors believe that our loyal stockholders have been of great help.

As you know one of our sources of income is through the Security Building and Loan Association, which has made an excellent growth during the past year. We ask that you extend to the Security Building and Loan Association a helping hand, and this may be done by depositing your funds or by encouraging your friends and acquaintances to open accounts. We write all lines of insurance, and if you have not already placed yours with the Company we would be glad to handle it for you.

Wishing you a happy and prosperous New Year, we are,

Sincerely yours,

CENTURY INVESTMENT TRUST
By GLEN O. PERKINS

Encl. 1."

(b) a certain note in words and figures as follows, to-wit:

“Harry—

Jan. 5.

In mailing your second check it was inadvertently torn here in our office. Will you drop in, endorse it and let us cash it here please.

HOBBS”

Against the peace and dignity of the United States of America, and contrary to the form of the statute of the said United States of America in such case made and provided.

Ninth Count

And the Grand Jurors aforesaid, on their oath aforesaid, do further present that Jesse H. Shreve, Archie C. Shreve, Daniel H. Shreve, Glen O. Perkins and W. C. Evans, the identical parties named in the fourth count of this indictment, hereinafter called the defendants, so having devised the scheme and artifice described in the said fourth count of this indictment, the allegations concerning which in said fourth count are hereby incorporated by reference thereto in this count as fully and with like effect for [24] all purposes as though the same were here reiterated and repeated, on or about the 22nd day of September, 1931, in the District of Arizona and within the jurisdiction of this Court, for the purpose of executing said scheme and artifice, did unlawfully, knowingly, wilfully and feloniously place and cause to be placed in the United States Post Office at Phoenix, Arizona, to be sent and delivered by the Post Office Establishment of

the United States, according to the direction thereon, a certain letter in a postpaid envelope addressed to:

Mrs. Alice H. Davis,
439 So. Devereaux Street
Globe, Arizona

which said envelope then and there contained and had enclosed therein a certain one page letter dated September 22, 1931, which letter was and is in words and figures following, to-wit:

“Insurance Department Investment Department

Plate Glass	Real Estate
Automobile	Collections
Burglary	Mortgages
Accident	Contracts
Liability	Stocks
Life	Bonds
Fire	Loans

Century

Investment Trust

119 North Central Avenue

Phone 3-4734

Phoenix, Arizona

September 22, 1931

Mrs. Alice H. Davis
439 So. Devereaux Street
Globe, Arizona

Dear Mrs. Davis:

Received your letter yesterday.

Mr. Shreve or I will be in Globe the latter part of this week or the first part of next week

and will see you relative to the matter spoken of in your letter.

Very truly yours,

GLEN O. PERKINS

Secretary

GOP:G''

Against the peace and dignity of the United States of America, and contrary to the form of the statute of the said United States of America in such case made and provided. [25]

Tenth Count

And the Grand Jurors aforesaid, on their oath aforesaid, do further present that Jesse H. Shreve, Archie C. Shreve, Daniel H. Shreve, Glen O. Perkins and W. C. Evans, the identical parties named in the fourth count of this indictment, hereinafter called the defendants, so having devised the scheme and artifice described in the said fourth count of this indictment, the allegations concerning which in said fourth count are hereby incorporated by reference thereto in this count as fully and with like effect for all purposes as though the same were here reiterated and repeated, on or about the 5th day of January, 1931, in the District of Arizona and within the jurisdiction of this Court, for the purpose of executing said scheme and artifice, did unlawfully, knowingly, wilfully and feloniously place and cause to be placed in the United States Post Office at Tucson, Arizona, to be sent and delivered by the Post Office Establishment of the United

States, according to the direction thereon, a certain letter in a postpaid envelope addressed to:

Mrs. Lula Gatlin,
396 S. Stone Ave.,
Tucson, Arizona.

which said envelope then and there contained and had enclosed therein a certain one page letter dated January 2, 1931; which letter was and is in words and figures following, to-wit:

“Century Investment Trust
Phoenix, Arizona
January 2, 1931.

Mrs. Lula Gatlin,
396 S. Stone Avenue,
Tucson, Arizona.

Herewith we hand you dividend check on your Preferred Stock of the Century Investment Trust.

We are very happy to be able to pay you this dividend in the face of financial conditions over the country.

The Century Investment Trust has had a good year and the Directors believe that our loyal stockholders have been of great help.

As you know one of our sources of income is through the Security Building and Loan Association, which [26] has made an excellent growth during the past year. We ask that you extend to the Security Building and Loan Association a helping hand, and this may be done

by depositing your funds or by encouraging your friends and acquaintances to open accounts. We write all lines of insurance, and if you have not already placed yours with the Company we would be glad to handle it for you.

Wishing you a happy and prosperous New Year, we are,

Sincerely yours,

CENTURY INVESTMENT TRUST

By D. H. SHREVE

Encl. 1.”

Against the peace and dignity of the United States of America, and contrary to the form of the statute of the said United States of America in such case made and provided.

Eleventh Count

And the Grand Jurors aforesaid, on their oath aforesaid, do further present that Jesse H. Shreve, Archie C. Shreve, Daniel H. Shreve, Glen O. Perkins and W. C. Evans, the identical parties named in the fourth count of this indictment, hereinafter called the defendants, so having devised the scheme and artifice described in the said fourth count of this indictment, the allegations concerning which in said fourth count are hereby incorporated by reference thereto in this count as fully and with like effect for all purposes as though the same were here reiterated and repeated, on or about the 15th day of April, 1931, in the District of Arizona and within the jurisdiction of this Court, for the pur-

pose of executing said scheme and artifice, did unlawfully, knowingly, wilfully and feloniously place and cause to be placed in the United States Post Office at Tucson, Arizona, to be sent and delivered by the Post Office Establishment of the United States, according to the direction thereon, a certain letter in a postpaid envelope addressed to:

Mrs. Lula Gatlin
396 So. Stone Avenue
Tucson, Arizona

which said envelope then and there contained and had enclosed therein a certain one page letter dated April 14, 1931, which letter [27] was and is in words and figures following, to-wit:

“Century Investment Trust
Phoenix, Arizona

April 14, 1931

To Stockholders:

Enclosed you will find your dividend check for the first quarter of 1931.

The checks are fifteen days late for which we are sorry, but we feel that every stockholder will appreciate the checks in face of general conditions, when but few companies are able to pay dividends.

It is a source of much satisfaction to know that the stockholders of the Century Investment Trust are loyally assisting the Company. Many are using the Security Building and Loan Association, thus helping to build up this splen-

did association. Many of you have given us insurance and have directed your friends to us.

We have installed a regular Insurance Department, writing all lines of insurance such as fire, automobile, life, burglary, etc. With the able assistance of every stockholder, this department can be made to pay the entire overhead of the Company.

Thanking you for your loyalty and wishing you success, we are

Yours very truly,

CENTURY INVESTMENT TRUST
By D. H. SHREVE''

Against the peace and dignity of the United States of America, and contrary to the form of the statute of the said United States of America in such case made and provided. [28]

Twelfth Count

And the Grand Jurors aforesaid, on their oath aforesaid, do further present that Jesse H. Shreve, Archie C. Shreve, Daniel H. Shreve, Glen O. Perkins and W. C. Evans, the identical persons named in the eleven preceding counts of this indictment, hereinafter referred to as the defendants, heretofore, to-wit, on or about the 4th day of March, 1929, and continuously thereafter down to and including the date of finding this indictment, at Tucson, Arizona, and at Phoenix, Arizona, both within the State and District of Arizona and within the jurisdiction of this Court, and at divers other places to the Grand Jurors unknown, did wilfully, knowingly, un-

lawfully and feloniously conspire, combine, confederate and agree among themselves and with each other and with other persons whose names are to the Grand Jurors unknown, to commit certain offenses against the United States, in the manner and by the means following, to-wit:

By devising and intending to devise a scheme and artifice for obtaining money from Fred Sweetland, O. Hohenstein, Henry Baker and other persons whose names are to said Grand Jurors unknown, by means of false pretenses, representations and promises, which said scheme and artifice is fully described and set forth in the first count of this indictment, the allegations concerning which in said first count are hereby incorporated by reference thereto in this count as fully and with like effect for all purposes as though the same were here reiterated and repeated, and, having so devised and intended to devise said scheme and artifice, for the purpose of executing the same, wilfully, knowingly, unlawfully and feloniously placing and causing to be placed in the United States Post Office at Tucson, Arizona, at Phoenix, Arizona, and at Mesa, Arizona, to be sent and delivered by the Post Office Establishment of the United States, the several envelopes, letters, statements and writings described and set forth in the first, second and third counts of this indictment, the allegations concerning which in said first, second and third counts are hereby incorporated by reference thereto in this count as fully and with like effect as though the same were here reiterated and repeated; and [29]

By devising and intending to devise a scheme and artifice for obtaining money and property from Wesley Palmer, R. R. Guthrie, O. H. Robson, Mary Robson, Helen Hannon, Harry Nelson, Anna B. Nelson, Alice H. Davis, Lula Gatlin and other persons whose names are to said Grand Jurors unknown, by means of false pretenses, representations and promises, which said scheme and artifice is fully described and set forth in the fourth count of this indictment, the allegations concerning which in said fourth count are hereby incorporated by reference thereto in this count as fully and with like effect for all purposes as though the same were here reiterated and repeated, and, having so devised and intended to devise said scheme and artifice, for the purpose of executing the same, wilfully, knowingly, unlawfully and feloniously placing and causing to be placed in the United States Post Office at Phoenix, Arizona, and at Tucson, Arizona, to be sent and delivered by the Post Office Establishment of the United States, the several envelopes, letters, statements and writings described and set forth in the fourth, fifth, sixth, seventh, eighth, ninth, tenth and eleventh counts of this indictment, the allegations concerning which in said counts are hereby incorporated by reference thereto in this count as fully and with like effect for all purposes as though the same were here reiterated and repeated.

And the Grand Jurors aforesaid, on their oath aforesaid, do further present that at the hereinafter stated times, in pursuance, furtherance and

execution of, and for the purpose of carrying out and effecting the object, design and purpose of, said conspiracy, combination, confederation and agreement, the defendants did commit the following overt acts in the Cities of Tucson and Phoenix, within the State and District of Arizona and within the jurisdiction of this Court to-wit: [30]

1. That on or about the 15th day of January, 1931, the defendants, as officers, directors, agents and employees of the Security Building and Loan Association, maintained an office in the City of Tucson, within the State and District of Arizona.

2. That on or about the 15th day of January, 1931, the defendants, as officers, directors, agents and employees of the Century Investment Trust, maintained an office in the City of Phoenix, within the State and District of Arizona.

3. That on or about the 17th day of January, 1931, the defendants placed and caused to be placed in the United States Post Office at Tucson, Arizona, to be sent and delivered by the Post Office Establishment of the United States, the envelope, letter and statement described and set forth in the first count of this indictment, the allegations concerning which in said first count are hereby incorporated by reference thereto in this count as fully and with like effect for all purposes as though the same were here reiterated and repeated.

4. That on or about the 5th day of January, 1931, the defendants placed and caused to be placed in the United States Post Office at Phoenix, Ari-

zona, to be sent and delivered by the Post Office Establishment of the United States, the envelope and letter described and set forth in the fourth count of this indictment, the allegations concerning which in said fourth count are hereby incorporated by reference thereto in this count as fully and with like effect for all purposes as though the same were here reiterated and repeated.

Contrary to the form of the statute of the United States of America in such case made and provided, and against the peace and dignity of the United States of America.

CLIFTON MATHEWS

United States Attorney for the
District of Arizona [31]

[Endorsed]: Filed Dec. 22, 1933. [32]

[Title of District Court and Cause.]

GENERAL AND SPECIAL DEMURRERS

Come now the defendants Jesse H. Shreve, Archie C. Shreve, Daniel H. Shreve and W. C. Evans, by their attorneys hereinafter named, and demur generally and specially to the indictment found herein, and each of the presentments contained therein, and each and every count thereof, and for grounds of such demurrers allege:

GENERAL DEMURRER

That said indictment, and each of the presentments contained therein, and each and every count

thereof, do not state facts sufficient to constitute an offense, or offenses, against the laws of the United States of America.

CHARLES C. CROUCH

LESLIE C. HARDY

Attorneys for defendants Jesse H. Shreve, Archie C. Shreve, Daniel H. Shreve and W. C. Evans. [33]

SPECIAL DEMURRER

Come now said defendants, by their attorneys hereinafter named, but without waiving the foregoing General Demurrer, and specially demur to said indictment, and each of the presentments therein contained, and each and every count thereof, and for grounds of special demurrer allege:

(a) That the schemes or artifices alleged, or attempted to be alleged, in said indictment, and each of the presentments therein contained, and each and every count thereof, do not constitute a scheme or artifice, or schemes or artifices, for obtaining money or property by false pretenses, representations or pretenses.

(b) That said indictment, and each of the presentments therein contained, and each and every count thereof, do not state facts with such clearness, certainty and particularity as to enable said defendants, or either of them, to prepare their, or his, defense, or to avail them, or either of them, of a conviction or acquittal in defense to a subsequent prosecution for the same offenses alleged in said indictment.

(c) That said indictment, and each of the presentments therein contained, and each and every count thereof, while alleging that said defendants, and each of them, devised and intended to devise a scheme or artifice for obtaining money and property by means of false pretenses, representations and promises, wholly fails to charge any certain scheme or artifice.

(d) That said presentments, and each of the counts of said indictment, charge distinct offenses in that distinct offenses are alleged without stating said offenses separately.

(e) That said indictment, and each of the presentments therein contained, and each and every count thereof, are duplicitous in that distinct and separate offenses are joined therein. [34]

(f) That the scheme or schemes set forth in the first count of said indictment are indefinite, uncertain, and repugnant in this:

That whereas on page 3 of said indictment it is alleged that no depositor of said Security Building and Loan Association would be or ever was secured against loss by any guaranteed "or other capital", "or otherwise", nevertheless, it is alleged on page 4 of said indictment that the total amount of the paid-in capital stock of said Association would not and never did exceed the sum of Forty-five Thousand Dollars (\$45,000.00).

(g) That the names of some of the persons from whom the defendants, or either of them, by said

schemes or artifices, obtained money or property by means of false pretenses, representations or promises, are not set out in said indictment, or in either of the presentments thereof, or in either count thereof, and no sufficient reason is alleged for the omission of the names of such persons therefrom.

(h) That it cannot be ascertained from said indictment, or in either of the presentments thereof, or in either count thereof, whether or not any person, class or group of persons, or the public in general, were deprived of anything of value by said defendants, or either of them, by reason of false pretenses, representations and promises.

(i) That it cannot be ascertained from said indictment, or in either of the presentments thereof, or in either count thereof, what, if any, property, real, personal or otherwise, was ever received by the defendants, or either of them, from any of the alleged parties mentioned in said indictment, and each of the presentments therein contained, and each and every count thereof, by reason of said schemes or artifices.

(j) That said indictment, and each of the presentments therein contained, and each and every count thereof, are defective in that they, and each of them, plead conclusions of fact and of law. [35]

(k) That the schemes and artifices, and each of them, set forth in said indictment, and each of the presentments therein contained, and each and every count thereof, wholly fail to disclose such schemes or artifices, or scheme or artifice, as are reasonably

calculated to obtain money or other property by means of false pretenses, representations and promises.

(l) That the alleged use of the Post Office Establishment of the United States of America by said defendants, and each of them, in the manner and form as alleged in said indictment, and each of the presentments therein contained, and each and every count thereof, affirmatively establishes that said Post Office Establishment was not, and could not have been, used for the purpose of executing any such scheme or artifice, or schemes or artifices, as are alleged in said indictment, and each of the presentments therein contained, and each and every count thereof.

(m) That it does not appear in said indictment, or in either of the presentments therein contained, or in either count thereof, how many, or that any, of the persons named in said indictment parted with any money or property by reason of the defendants, or either of them, devising, or intending to devise, said schemes or artifices, or that said schemes or artifices were communicated to said persons, or that they were in any manner affected thereby.

(n) That it cannot be determined or ascertained from the said indictment, or in either of the presentments therein contained, or in either count thereof, what, if any, connection with said alleged schemes or artifices, the said defendants, or either of them, had with the corporations named therein,

it not appearing therefrom, what, if any, official connection said defendants, or either of them, had with any of the said corporations, and it not appearing therefrom that said defendants, or either of them, were connected with said corporations, either as officers, directors, agents, servants or stockholders of said corporations, or any of them. [36]

(o) That it appears from said indictment, and from all the presentments therein contained, and from all of the counts thereof, that the alleged artifices or schemes alleged to have been devised and intended to be devised by the use of the postal establishment of the United States was a lawful business attempt on the part of said defendants herein entered into in good faith.

(p) That said indictment, and each of the presentments contained therein, and each and every count thereof, fail to state public offenses against the laws of the United States in that said indictment, and each of the presentments contained therein, and each and every count thereof, improperly and unlawfully join each of the defendants with the remaining defendants for the commission of offenses which, upon the face of said indictment, and each of the presentments contained therein, and each and every count thereof, were, and could only have been, committed by them separately.

Wherefore, these defendants, and each of them, pray that said indictment, and each of the presentments contained therein, and each and every count

thereof, be adjudged insufficient; that this demurrer be sustained; and that said defendants be discharged.

CHARLES C. CROUCH

LESLIE C. HARDY

Attorneys for Defendants Jesse H.
Shreve, Archie C. Shreve, Daniel
H. Shreve and W. C. Evans. [37]

[Endorsed]: Filed Jan. 29, 1934. [38]

[Title of District Court and Cause.]

SUPPLEMENTAL MOTION AND DEMAND
FOR BILL OF PARTICULARS

Come now the defendants, Jesse H. Shreve, Archie C. Shreve, and W. C. Evans, and pursuant to the decision of the United States Circuit Court of Appeals for the Ninth Circuit rendered and filed in this cause upon appeal on April 29, 1935, file this Supplemental Motion and Demand upon the United States Attorney of the aforesaid District for a more particular statement of the matters and things in the indictment herein, to-wit:

1. A more particular statement of the time when the defendants devised the "scheme and artifice for obtaining money" referred to in the various counts of the said Indictment.

2. Referring to the following portion of the first count of the said Indictment, to-wit:

"That the defendants would organize and incorporate and cause to be incorporated, under

the laws of the State of Arizona, a corporation to be known as the Security Building & Loan Association and would obtain, maintain and exercise complete control of said Association.”

[39]

Further particulars is demanded respecting said accusation as to how, or in what manner, the defendants were to obtain, maintain and exercise complete control of said association.

3. Referring to the following portion of the first count of the said Indictment, to-wit:

“that the defendants would cause said Association to engage in the business of receiving deposits of money from any and all persons who might be induced to deposit money with said Association, issuing so-called pass-books and so-called investment certificates therefor, contracting to pay interest thereon, and investing, loaning and otherwise disposing of such money in such manner as the defendants might determine,”

Further particulars is demanded respecting said accusations as to the manner in which the defendants would cause the said Security Building and Loan Association to dispose of the money in the said accusation referred to, which was not to be invested or loaned.

4. Referring to the following portion of the first count of the said Indictment, to-wit:

“That the defendants would falsely pretend and represent to the aforesaid persons that

their money could be safely and profitably invested by depositing the same with said Association and receiving therefor its so-called pass-books and so-called investment certificates, whereas, in truth and in fact, as the defendants then and there well knew, such money could not and would not be safely or profitably invested by so depositing the same, but such [40] money so deposited would be and was at all times unsafely and unprofitably invested.”

Further particulars is demanded respecting said accusation as to why the money referred to in the said accusation, could not be safely or profitably invested, and how such money would be and was at all times unsafely and unprofitably invested.

5. Referring to the following portion of the first count of the said indictment, to-wit:

“That the defendants would falsely pretend and represent to the aforesaid persons and would falsely promise them, that all money deposited with said Association was and would be protected and the depositors thereof secured against loss by the guaranteed capital of said Association and by first mortgages on Arizona real estate, whereas, in truth and in fact, as the defendants then and there well knew, said Association never would and never did have any guaranteed capital, and no money deposited with said Association would be or ever was protected, and no depositor thereof would be or ever was secured against loss, by any guaran-

teed or other capital, or by any first or other mortgage or mortgages, or otherwise, but all such money and all such depositors would be and were at all times wholly unprotected and unsecured.”

Further particulars is demanded as to why no money deposited with said Association would be or ever was protected, as to why no depositor in the said Security Building and Loan Association could not be or was not secured by the capital of said Association, or by any mortgages which the said Association acquired, and why all such money of all [41] such depositors were at all times wholly unprotected and unsecured.

6. Referring to the following portion of the first count of the said Indictment, to-wit:

“That the defendants would falsely pretend and represent to the aforesaid persons, and would falsely promise them that said Association would pay six per cent per annum interest on all money deposited with said Association, whereas, in truth and in fact, as the defendants then and there well knew, the greater part of all money so deposited, said Association never would and never did pay any interest thereon, and would be and was at all times wholly unable to pay any such interest.”

Further particulars is demanded as to what part of the money so deposited, and over what periods of time, no interest was paid thereon.

7. Referring to the following portion of the first count of the said Indictment, to-wit:

“That the defendants would falsely pretend and represent to the aforesaid persons, and would falsely promise them, that all money deposited with said Association was and would be by said Association safely and profitably invested, whereas, in truth and in fact, as the defendants then and there well knew, the greater part of all money so deposited would not be and never was safely or profitably invested, but would be and was at all times unsafely and unprofitably invested and disposed of.”

Further particulars is demanded respecting said [42] accusation as to what money deposited with the said Security Building and Loan Association was unsafely and unprofitably invested, giving:

- (a) The date of such investments.
- (b) The character of such investments.
- (c) The reasons why the same were considered unsafe or unprofitable investments.

8. Referring to the following portion of the first count of the said Indictment, to-wit:

“That the defendants would falsely pretend and represent to the aforesaid persons and would falsely promise them, that all money deposited with said Association was and would be by said Association invested in sound first mortgages on improved real estate, carefully selected, whereas, in truth and in fact, as the

defendants then and there well knew, the greater part of such money would not be and never was so invested, but would be and was at all times invested in mortgages, which, in amount, would and did at all times greatly exceed the actual value of the property covered thereby, and, for that reason, would be and were at all times uncollectable and practically worthless.”

Further particulars is demanded respecting the said accusation as to which mortgages in which the said Security Building and Loan Association invested its funds in amount greatly exceeding the actual value of the properties covered thereby, giving:

(a) The dates of the respective investments in the said mortgages.

(b) The names of the mortgagors. [43]

(c) The description of the respective properties covered by the said mortgages.

(d) The actual value of each parcel of property covered thereby.

(e) The amount that each of the said mortgages exceeded the actual value of the respective properties covered thereby.

9. Referring to the following portion of the first count of the said Indictment, to-wit:

“That the defendants would falsely pretend and represent to the aforesaid persons that Three Hundred Thousand (\$300,000) Dollars

of the capital stock of said Association had been paid in, whereas, in truth and in fact, as the defendants then and there well knew, the total amount of the paid-in capital stock of said Association would not and never did exceed the sum of Forty-five Thousand (\$45,000) Dollars,”

Further particulars is demanded respecting said accusation as to when, where and how the defendants falsely pretended and represented to said persons, naming them, that \$300,000 of the capital stock of said Association had been paid in.

(10) Referring to the following portion of the first count of the said Indictment, to-wit:

“That by means of said false pretenses, representations and promises, so made and caused to be made by the defendants, as aforesaid large sums of money would be obtained from the aforesaid persons and by them deposited with said Association,” [44]

Further particulars is demanded respecting the said accusations as to what amount of money is meant by the use of the words, “large sums of money” and an identification of the amount of money to be obtained from each of the persons in the said accusation referred to.

11. That with respect to the letters set forth in the first count of said Indictment further particulars is demanded as to which of the defendants mailed said letters, and that with respect to the

letters set forth in said count which said defendants caused to be mailed, that the person or persons who mailed said letters be named.

12. Referring to the following portion of the fourth count of said Indictment, to-wit:

“That the defendants would organize and incorporate and caused to be organized and incorporated, under the laws of the State of Arizona, a corporation to be known as the Century Investment Trust, and would obtain, maintain and exercise complete control of said corporation and of another corporation theretofore organized and incorporated under the laws of the State of Arizona and known as the Arizona Holding Corporation,”

Further particulars is demanded respecting said accusation as to how, or in what manner, the defendants would obtain, maintain and exercise complete control of the said Century Investment Trust and the said Arizona Holding Corporation.

13. Referring to the following portion of the fourth count of said Indictment, to-wit:

“That the defendants would organize and incorporate and cause to be organized and incorporated, under the laws of the State of Arizona, a corporation to be known as [45] the Century Investment Trust, and would obtain, maintain and exercise complete control of said corporation and of another corporation theretofore organized and incorporated under the laws of

said State and known as the Arizona Holding Corporation,”

Further particulars is demanded respecting in what manner the defendants obtained, maintained and exercised complete control of said corporation.

14. Referring to the following portion of the fourth count of said Indictment, to-wit:

“That the said Century Investment Trust would have a capital stock of one million (1,000,000) shares, without par value; that the defendants would cause the said Century Investment Trust to issue large amounts of its said stock to the defendants and to the said Arizona Holding Corporation, and would cause the said Century Investment Trust to retain some of said stock in its treasury,”

Further particulars is demanded respecting what amounts of the stock of said Century Investment Trust and the number or other description of the shares, the defendants would cause to be issued to them, and what amounts to the said Arizona Holding Corporation, and what amount of said stock they would cause the said Century Investment Trust to retain in its treasury, giving the number or other description of the shares.

15. Referring to the following portion of the fourth count of said Indictment, to-wit:

“that the defendants would sell and dispose of, and would cause the said Century Investment Trust and the said Arizona Holding Cor-

poration to sell and dispose of [46] large amounts of said stock to any and all persons who might be induced to purchase and pay for the same; that the defendants would invite and solicit, and would cause the said Century Investment Trust and the said Arizona Holding Corporation to invite and solicit, the aforesaid persons to purchase said stock from the defendants, from the said Century Investment Trust and from the said Arizona Holding Corporation and to pay for the same, either in money or in property,"

Further particulars is demanded of the amounts and descriptions of the stock which was in this manner sold and disposed of, and the names of the persons to whom it was in this manner sold and disposed of; and the names of the persons whom the defendants invited and solicited to purchase said stock from the defendants, from the said Century Investment Trust and the said Arizona Holding Corporation.

16. Referring to the following portion of the fourth count of said Indictment, to-wit:

"That the defendants would falsely pretend and represent to the aforesaid persons that the said Century Investment Trust was in a solvent condition financially, whereas, in truth and in fact, as the defendants then and there well knew, the said Century Investment Trust would not be and never was in a solvent con-

dition financially, but would be and was at all times in an insolvent and failing condition,”

Further particulars is demanded disclosing the financial condition of said Century Investment Trust at the [47] times therein referred to, with particular reference to books of accounts of said Century Investment Trust and of bank or bank accounts pertaining to said Century Investment Trust, disclosing in detail the assets and liabilities of said Century Investment Trust as it appears from said books of accounts or otherwise.

17. Referring to the following portion of the fourth count of said Indictment, to-wit:

“That the defendants would falsely pretend and represent to the aforesaid persons that the said Century Investment Trust had done and was doing a large and profitable business, whereas, in truth and in fact, as the defendants then and there well knew, the said Century Investment Trust never had done, never would do and never did a large or profitable business, and had, in fact, done and would do very little business of any kind, and all such business had been, would be and was at all times small and unprofitable.”

Further particulars is demanded with respect to a statement of business transacted by the said Century Investment Trust during the time referred to as reflected by the books of said Century Investment Trust, and that a financial statement be supplied as reflected by the books of the said Century

Investment Trust disclosing wherein the business of said Century Investment Trust, at said time, was small and unprofitable.

18. Referring to the following portion of the fourth count of said Indictment, to-wit: [48]

“That the defendants would falsely pretend and represent to the aforesaid persons, and would falsely promise them, that the said Century Investment Trust had and would have net earnings and net income out of which dividends could and would be paid to its stockholders, whereas, in truth and in fact, as the defendants then and there well knew, the said Century Investment Trust never had and never would or did have any net earnings or any net income, and no dividends could or would be or ever were paid out of any such earnings or income,”

Further particulars is demanded as to the financial calculations, and the source or sources from which said calculations is derived, upon which the charge is based that said Century Investment Trust never had any net earnings or net income.

19. Referring to the following portion of the fourth count of said Indictment, to-wit:

“That the defendants would falsely pretend and represent to the aforesaid persons that the dividends actually paid by the said Century Investment Trust to its stockholders had been and were paid out of the net earnings and net

income of the said Century Investment Trust, whereas, in truth and in fact, as the defendants then and there well knew, such dividends had not been, would not be and were not paid out of any earnings or any income, of the said Century Investment Trust, but all such dividends had been, would be and were paid out of funds which the defendants had supplied and caused to be supplied to the said Century Investment Trust for that purpose, and had been, would be and were so [49] paid for the purpose of inducing the aforesaid persons to believe that the said Century Investment Trust did and would have net earnings and net income out of which other and further dividends could and would be paid, which belief, as the defendants then and there well knew, was wholly false and unfounded,"

Further particulars is demanded as to when and in what manner the defendants falsely pretended and represented to said persons, naming them, that dividends paid by the Century Investment Trust were paid out of funds which defendants had supplied and caused to be supplied to said Century Investment Trust for that purpose, and the amount of funds so supplied by said defendants, and the times said funds were so supplied.

20. Referring to the following portion of the fourth count of said Indictment, to-wit:

“That by means of said false pretenses, representations and promises, so made and caused

to be made by the defendants as aforesaid, large sums of money and large amounts of property would be obtained from the aforesaid persons in exchange for the stock of the said Century Investment Trust.”

Further particulars is demanded respecting the names of the persons and the times to whom said false pretenses, representations and promises were made, and the amount of money, and the description of the property, which were obtained from said persons in exchange for said stock of Century Investment Trust, and the times said money and property were so obtained. [50]

21. That with respect to the letters set forth in the fourth count of said Indictment further particulars is demanded as to which of the defendants mailed said letters, and with respect to the letters set forth in said count which said defendants caused to be mailed, that the person or persons who mailed said letters be named.

22. Referring to the following portion of the twelfth count of said Indictment, to-wit:

“And the Grand Jurors aforesaid, on their oath aforesaid, do further present that Jesse H. Shreve, Archie C. Shreve, Daniel H. Shreve, Glen O. Perkins and W. C. Evans, the identical persons named in the eleven preceding counts of this indictment, hereinafter referred to as the defendants, heretofore, to-wit: on or about the 4th day of March, 1929, and continuously

thereafter down to and including the date of finding this indictment, at Tucson, Arizona, and at Phoenix, Arizona, both within the State and District of Arizona and within the jurisdiction of this Court, and at divers other places to the Grand Jurors unknown, did wilfully, knowingly, unlawfully and feloniously conspire, combine, confederate and agree among themselves and with each other and with other persons whose names are to the Grand Jurors unknown, to commit certain offenses against the United States, in the manner and by the means following, to-wit:

Further particulars is demanded respecting said accusation in the following respects, to-wit: [51]

(a) As to the "other places to the Grand Jurors unknown," at which the defendants conspired, combined, confederated and agreed among themselves and with each other.

(b) As to the names of "the other persons" whose names were unknown to the Grand Jurors who return the Indictment herein.

(c) At what specific time or times, and on what specific occasion or occasions, subsequent to the fourth day of March, 1929, did said defendants unlawfully, and feloniously conspire, combine, confederate and agree among themselves, and with each other, and among other persons, and, thereby, effect the continuity of said alleged conspiracy from and after said fourth day of March, 1929, and down to

and including the date of the finding of said Indictment, as charged in the twelfth count of said Indictment.

(d) At what specific place, or places, other than the cities, respectively, of Tucson and Phoenix, Arizona, did said defendants, or any thereof, on or about the fourth day of March, 1929, and continuously thereafter, down to and including the date of finding said Indictment, engage in the conspiracy as charged in said accusation.

(e) The names of the respective persons, other than the defendants themselves, with whom it is sought, as alleged in said accusation, to charge the defendants to have unlawfully and feloniously conspired, combined, [52] confederated and agreed, on or about the fourth day of March, 1929, and continuously thereafter, down to and including the date of finding said Indictment.

LESLIE C. HARDY

Attorney for said Defendants, Jesse
H. Shreve, Archie C. Shreve, and
W. C. Evans.

Received copy of the within Motion and Demand for Bill of Particulars this 17th day of February, 1936.

K. BERRY PETERSON

Assistant U. S. Attorney

[Endorsed]: Filed Feb. 17, 1936. [53]

[Title of District Court and Cause.]

November 1935 Term

At Tucson

MINUTE ENTRY OF
MONDAY, FEBRUARY 24, 1936

(Tucson General Minutes)

Honorable Albert M. Sames, United States District
Judge, Presiding.

ORDER GRANTING SUPPLEMENTAL MO-
TION AND DEMAND FOR BILL OF PAR-
TICULARS

Supplemental Motion and Demand for Bill of Particulars of the defendants Jesse H. Shreve, Archie C. Shreve and W. C. Evans comes on regularly for hearing this day.

K. Berry Peterson, Esquire, Assistant United States Attorney, appears for the Government. Leslie C. Hardy, Esquire, appears as counsel for the Defendants, and

It is ordered that said Supplemental Motion and Demand for Bill of Particulars be, and the same is hereby granted. [54]

[Title of District Court and Cause.]

BILL OF PARTICULARS

Now comes F. E. Flynn, United States Attorney in and for the District of Arizona, and in compliance with the order of this Court dated February

24, 1936 requiring the Government to furnish a bill of particulars in the above entitled cause with regard to certain matters alleged in the indictment herein, says:

Question 1.

A more particular statement of the time when the defendants devised the "scheme and artifice for obtaining money" referred to in the various counts of the said Indictment.

Answer to Question 1.

That the said scheme and artifice for obtaining money referred to in the Indictment was devised over a period of time beginning approximately May, 1928 up to and including the time of mailing the letters alleged and referred to in the Indictment.

Question 2.

Referring to the following portion of the first count of the said Indictment, to-wit:

"That the defendants would organize and incorporate and cause to be incorporated, under the laws of the [55] State of Arizona, a corporation to be known as the Security Building & Loan Association and would obtain, maintain and exercise complete control of said Association."

Further particulars is demanded respecting said accusation as to how, or in what manner, the defendants were to obtain, maintain and exercise complete control of said association.

Answer to Question 2.

By the organization of the Century Investment Trust Corporation and the Arizona Holding Company, to maintain full control and management of the Security Building and Loan Association, the Century Investment Trust Corporation being organized for the purpose of acquiring other companies.

Question 3.

Referring to the following portion of the first count of the said Indictment, to-wit:

“that the defendants would cause said Association to engage in the business of receiving deposits of money from any and all persons who might be induced to deposit money with said Association, issuing so-called pass-books and so-called investment certificates therefor, contracting to pay interest thereon, and investing, loaning and otherwise disposing of such money in such manner as the defendants might determine.”

Further particulars is demanded respecting said accusations as to the manner in which the defendants would cause the said Security Building and Loan Association to dispose of the money in the said accusation referred to, which was not to be invested or loaned. [56]

Answer to Question 3.

By the payment of interest from capital and moneys deposited and the loaning of money on mortgages that were insufficiently secured.

Question 4.

Referring to the following portion of the first count of the said Indictment, to-wit:

“That the defendants would falsely pretend and represent to the aforesaid persons that their money could be safely and profitably invested by depositing the same with said Association and receiving therefor its so-called pass-books and so-called investment certificates, whereas, in truth and in fact, as the defendants then and there well knew, such money could not and would not be safely or profitably invested by so depositing the same, but such money so deposited would be and was at all times unsafely and unprofitably invested.”

Further particulars is demanded respecting said accusation as to why the money referred to in the said accusation could not be safely or profitably invested, and how such money would be and was at all times unsafely and unprofitably invested.

Answer to Question 4.

Because the corporations invested in did not have sufficient assets to protect such investments; that the corporations were mismanaged and the funds were dissipated and wrongfully converted for the benefit of the defendants.

Question 5.

Referring to the following portion of the first [57] count of the said Indictment, to-wit:

‘That the defendants would falsely pretend and represent to the aforesaid persons and would falsely promise them, that all money deposited with said Association was and would be protected and the depositors thereof secured against loss by the guaranteed capital of said Association and by first mortgages on Arizona real estate, whereas, in truth and in fact, as the defendants than and there well knew, said Association never would and never did have any guaranteed capital, and no money deposited with said Association would be or ever was protected, and no depositor thereof would be or ever was secured against loss, by any guaranteed or other capital, or by any first or other mortgage or mortgages, or otherwise, but all such money and all such depositors would be and were at all times wholly unprotected and unsecured.’

Further particulars is demanded as to why no money deposited with said Association would be or ever was protected, as to why no depositor in the said Security Building and Loan Association could not be or was not secured by the capital of said association, or by any mortgages which the said association acquired, and why all such money of all such depositors were at all times wholly unprotected and unsecured.

Answer to Question 5.

By reason of the fact that the capital stock of the Security Building and Loan Associa-

tion was at all times wholly inadequate to protect the moneys deposited and that the moneys were loaned on mortgages in excess of the true value of the property and not bona fide mortgages. [58]

Question 6.

Referring to the following portion of the first count of the said Indictment, to-wit:

“That the defendants would falsely pretend and represent to the aforesaid persons, and would falsely promise them that said Association would pay six per cent per annum interest on all money deposited with said Association, whereas, in truth and in fact, as the defendants then and there well knew, as to the greater part of all money so deposited, said Association never would and never did pay any interest thereon, and would be and was at all times wholly unable to pay any such interest.”

Further particulars is demanded as to what part of the money so deposited, and over what periods of time, no interest was paid thereon.

Answer to Question 6.

That for the greater portion of the time the Association operated no interest was paid on the greater part of all moneys deposited.

Question 7.

Referring to the following portion of the first count of the said Indictment, to-wit:

“That the defendants would falsely pretend and represent to the aforesaid persons, and would falsely promise them, that all money deposited with said Association was and would be by said Association safely and profitably invested, whereas, in truth and in fact, as the defendants then and there well knew, the greater part of all money so deposited would not be and never was safely or profitably invested, but would be and was at all times unsafely and unprofitably [59] invested and disposed of.”

Further particulars is demanded respecting said accusation as to what money deposited with the said Security Building and Loan Association was unsafely and unprofitably invested, giving:

- (a) The date of such investments.
- (b) The character of such investments.
- (c) The reasons why the same were considered unsafe or unprofitable investments.

Answer to Question 7.

This question will be answered in conjunction with Question 8.

Question 8.

Referring to the following portion of the first count of the said Indictment, to-wit:

“That the defendants would falsely pretend and represent to the aforesaid persons and would falsely promise them, that all money de-

posited with said Association was and would be by said Association invested in sound first mortgages on improved real estate, carefully selected, whereas, in truth and in fact, as the defendants then and there well knew, the greater part of such money would not be and never was so invested, but would be and was at all times invested in mortgages, which, in amount, would and did at all times greatly exceed the actual value of the property covered thereby, and, for that reason, would be and were at all times uncollectable and practically worthless.”

Further particulars is demanded respecting the said accusation as to which mortgages in which the said Security Building and Loan Association invested [60] its funds in amount greatly exceeding the actual value of the properties covered thereby, giving:

(a) The dates of the respective investments in the said mortgages.

(b) The names of the mortgagors.

(c) The description of the respective properties covered by the said mortgages.

(d) The actual value of each parcel of property covered thereby.

(e) The amount that each of the said mortgages exceeded the actual value of the respective properties covered thereby.

Answer to Questions 7 and 8.

Where the mortgages listed were first mortgages the actual value was less than the amount

of the loan secured by such mortgages, and where the mortgages listed were second mortgages, the actual value of the property was less than the combined first and second mortgages. See schedule attached for list of mortgages.

Question 9.

Referring to the following portion of the first count of the said Indictment, to-wit:

“That the defendants would falsely pretend and represent to the aforesaid persons that Three Hundred Thousand (\$300,000) Dollars of the capital stock of said Association had been paid in, whereas, in truth and in fact, as the defendants then and there well knew, the total amount of the paid-in capital stock of said Association would not and never did exceed the sum of Forty-five Thousand (\$45,000) Dollars,” [61]

Further particulars is demanded respecting said accusation as to when, where and how the defendants falsely pretended and represented to said persons, naming them, that \$300,000 of the capital stock of said Association had been paid in.

Answer to Question 9.

See Government's exhibit No. 314 introduced at the former trial.

Question 10.

Referring to the following portion of the first count of the said Indictment, to-wit:

“That by means of said false pretenses, representations and promises, so made and caused to be made by the defendants, as aforesaid, large sums of money would be obtained from the aforesaid persons and by them deposited with said Association,”

Further particulars is demanded respecting the said accusations as to what amount of money is meant by the use of the words, “large sums of money” and an identification of the amount of money to be obtained from each of the persons in the said accusation referred to.

Answer to Question 10.

The words, “large sums of money” mean the total amount of moneys obtained by the alleged misrepresentations.

Question 11.

That with respect to the letters set forth in the first count of said Indictment further particulars is demanded as to which of the defendants mailed said letters, and that with respect to the letters set forth in said count which said defendants caused to be mailed, that the person or persons who mailed said [62] letters be named.

Answer to Question 11.

That the letters set forth in the first count of the indictment were mailed and caused to be mailed by each and all of the defendants, said

letters having been mailed in the ordinary and customary order of business of the Association.

Question 12.

Referring to the following portion of the fourth count of said Indictment, to-wit:

“That the defendants would organize and incorporate and caused to be organized and incorporated, under the laws of the State of Arizona, a corporation to be known as the Century Investment Trust, and would obtain, maintain and exercise complete control of said corporation and of another corporation theretofore organized and incorporated under the laws of the State of Arizona and known as the Arizona Holding Corporation,”

Further particulars is demanded respecting said accusation as to how, or in what manner, the defendants would obtain, maintain and exercise complete control of the said Century Investment Trust and the said Arizona Holding Corporation.

Answer to Question 12.

By control of the stock of the Century Investment Trust and the Arizona Holding Corporation, and active control of the management of these corporations.

Question 13.

Referring to the following portion of the fourth count of said indictment, to-wit:

“That the defendants would organize and in-

corporate and cause to be organized and incorporated, [63] under the laws of the State of Arizona, a corporation to be known as the Century Investment Trust, and would obtain, maintain and exercise complete control of said corporation and of another corporation theretofore organized and incorporated under the laws of said State and known as the Arizona Holding Corporation,”

Further particulars is demanded respecting in what manner the defendants obtained, maintained and exercised complete control of said corporation.

Answer to Question 13.

By control of the stock of the Century Investment Trust and the Arizona Holding Corporation, and active control of the management of these corporations.

Question 14.

Referring to the following portion of the fourth count of said Indictment, to-wit:

“That the said Century Investment Trust would have a capital stock of one million (1,000,000) shares, without par value; that the defendants would cause the said Century Investment Trust to issue large amounts of its said stock to the defendants and to the said Arizona Holding Corporation, and would cause the said Century Investment Trust to retain some of said stock in its treasury,”

Further particulars is demanded respecting what amounts of the stock of said Century Investment Trust and the number or other description of the shares, the defendants would cause to be issued to them, and what amounts to the said Arizona Holding Corporation, and what amount of said stock they would cause the said Century Investment Trust to retain in its treasury, giving the number or other description of the shares. [64]

Answer to Question 14.

The information requested is to be found in Government's exhibits Nos. 110 and 118 inclusive, introduced at the former trial, being the books of the Century Investment Trust.

Question 15.

Referring to the following portion of the fourth count of said Indictment, to-wit:

“that the defendants would sell and dispose of, and would cause the said Century Investment Trust and the said Arizona Holding Corporation to sell and dispose of large amounts of said stock to any and all persons who might be induced to purchase and pay for the same; that the defendants would invite and solicit, and would cause the said Century Investment Trust and the said Arizona Holding Corporation to invite and solicit, the aforesaid persons to purchase said stock from the defendants, from the said Century Investment Trust and

from the said Arizona Holding Corporation and to pay for the same, either in money or in property.”

Further particulars is demanded of the amounts and descriptions of the stock which was in this manner sold and disposed of, and the names of the persons to whom it was in this manner sold and disposed of; and the names of the persons whom the defendants invited and solicited to purchase said stock from the defendants, from the said Century Investment Trust and the said Arizona Holding Corporation.

Answer to Question 15.

In addition to the persons named in the Indictment, the public generally. [65]

Question 16.

Referring to the following portion of the fourth count of said Indictment, to-wit:

“That the defendants would falsely pretend and represent to the aforesaid persons that the said Century Investment Trust was in a solvent condition financially, whereas, in truth and in fact, as the defendants then and there well knew, the said Century Investment Trust would not be and never was in a solvent condition financially, but would be and was at all times in an insolvent and failing condition,”

Further particulars is demanded disclosing the financial condition of said Century Invest-

ment Trust at the times therein referred to, with particular reference to books of accounts of said Century Investment Trust and of bank or bank accounts pertaining to said Century Investment Trust, disclosing in detail the assets and liabilities of said Century Investment Trust as it appears from said books of accounts or otherwise.

Answer to Question 16.

This question is answered by the books and records of the Century Investment Trust introduced at the former trial, exhibits numbers 110 to 118 inclusive, and as amplified by the testimony of the witness C. K. Fierstone at the former trial.

Question 17.

Referring to the following portion of the fourth count of said Indictment, to-wit:

“That the defendants would falsely pretend and represent to the aforesaid persons that the said Century Investment Trust had done and was doing a [66] large a profitable business, whereas, in truth and in fact, as the defendants then and there well knew, the said Century Investment Trust never had done, never would do and never did a large or profitable business, and had, in fact, done and would do very little business of any kind, and all such business had been, would be and was at all times small and unprofitable.”

Further particulars is demanded with respect to a statement of business transacted by the said Century Investment Trust during the time referred to as reflected by the books of said Century Investment Trust, and that a financial statement be supplied as reflected by the books of the said Century Investment Trust disclosing wherein the business of said Century Investment Trust, at said times, was small and unprofitable.

Answer to Question 17.

This question is answered by the books and records of the Century Investment Trust introduced at the former trial, exhibits numbers 110 to 118 inclusive, and as amplified by the testimony of the witness C. K. Fierstone at the former trial.

Question 18.

Referring to the following portion of the fourth count of said Indictment, to-wit:

“That the defendants would falsely pretend and represent to the aforesaid persons, and would falsely promise them, that the said Century Investment Trust had and would have net earnings and net income out of which dividends could and would be paid to its stockholders, whereas, in truth and in fact, as the defendants then and there well knew, the said Century [67] Investment Trust never had and never would or did have any net earnings or any net income, and no dividends could or would be or ever were paid out of any such earnings or income.”

Further particulars is demanded as to the financial calculations, and the source or sources from which said calculations is derived, upon which the charges is based that said Century Investment Trust never had any net earnings or net income.

Answer to Question 18.

This is shown by the books of the Century Investment Trust, exhibits numbers 110 to 118 inclusive, introduced at the former trial, and the testimony of C. K. Fierstone, whose testimony may be found in the transcript of the record.

Question 19.

Referring to the following portion of the fourth count of said Indictment, to-wit:

“That the defendants would falsely pretend and represent to the aforesaid persons that the dividends actually paid by the said Century Investment Trust to its stockholders had been and were paid out of the net earnings and net income of the said Century Investment Trust, whereas, in truth and in fact, as the defendants then and there well knew, such dividends had not been, would not be and were not paid out of any earnings or any income, of the said Century Investment Trust, but all such dividends had been, would be and were paid out of funds which the defendants had supplied and caused to be supplied to the said Century Investment Trust for that purpose, and had been,

would be and were so paid for the purpose of inducing the [68] aforesaid persons to believe that the said Century Investment Trust did and would have net earnings and net income out of which other and further dividends could and would be paid, which belief, as the defendants then and there well knew, was wholly false and unfounded,"

Further particulars is demanded as to when and in what manner the defendants falsely pretended and represented to said persons, naming them, that dividends paid by the Century Investment Trust were paid out of funds which defendants had supplied and caused to be supplied to said Century Investment Trust for that purpose, and the amount of funds so supplied by said defendants, and the times said funds were so supplied.

Answer to Question 19.

This question cannot be answered because nowhere in the indictment is there an allegation that the defendants falsely pretended and represented that the dividends paid by the Century Investment Trust were paid out of funds which defendants supplied or caused to be supplied for that purpose.

Question 20.

Referring to the following portion of the fourth count of said Indictment, to-wit:

“That by means of said false pretenses, representations and promises, so made and caused

to be made by the defendants as aforesaid, large sums of money and large amounts of property would be obtained from the aforesaid persons in exchange for the stock of the said Century Investment Trust.”

Further particulars is demanded respecting the names of the persons and the times to whom said false [69] pretenses, representations and promises were made, and the amount of money, and the description of the property, which were obtained from said persons in exchange for said stock of Century Investment Trust, and the times said money and property were so obtained.

Answer to Question 20.

To each of the persons named in the fourth count of the indictment and to each of the persons who purchased stock in the Century Investment Trust, whose names are listed in the books of the company introduced at the former trial, exhibits numbers 110 to 118 inclusive, and to the public generally. The amount of money and description of property and the time such money and property was so obtained is to be found in the record of the former trial of this case and particularly in the books and records of the company introduced at the former trial and the testimony of the witness C. K. Fierstone.

Question 21.

That with respect to the letters set forth in the fourth count of said Indictment further

particulars is demanded as to which of the defendants mailed said letters, and with respect to the letters set forth in said count which said defendants caused to be mailed, that the person or persons who mailed said letters be named.

Answer to Question 21.

That the letters set forth in the fourth count of the indictment were mailed and caused to be mailed by each and all of the defendants, said letters having been mailed in the ordinary and customary order of business of the Association.

[70]

Question 22.

Referring to the following portion of the twelfth count of said Indictment, to-wit:

“And the Grand Jurors aforesaid, on their oath aforesaid, do further present that Jesse H. Shreve, Archie C. Shreve, Daniel H. Shreve, Glen O. Perkins and W. C. Evans, the identical persons named in the eleven preceding counts of this indictment, hereinafter referred to as the defendants, heretofore, to-wit: on or about the 4th day of March, 1929, and continuously thereafter down to and including the date of finding this indictment, at Tucson, Arizona, and at Phoenix, Arizona, both within the State and District of Arizona and within the jurisdiction of this Court, and at divers other places to the Grand Jurors unknown, did wilfully, knowingly, unlawfully and feloniously conspire,

combine, confederate and agree among themselves and with each other and with other persons whose names are to the Grand Jurors unknown, to commit certain offenses against the United States, in the manner and by the means following, to-wit:”

Further particulars is demanded respecting said accusation in the following respects, to-wit:

(a) As to the “other places to the Grand Jurors unknown,” at which the defendants conspired, combined, confederated and agreed among themselves and with each other.

(b) As to the names of “the other persons” whose names were unknown to the Grand Jurors who return the Indictment herein.

(c) At what specific time or times, and on what [71] specific occasion or occasions, subsequent to the fourth day of March, 1929, did said defendants unlawfully, and feloniously conspire, combine, confederate and agree among themselves, and with each other, and among other persons, and, thereby, effect the continuity of said alleged conspiracy from and after said fourth day of March, 1929, and down to and including the date of the finding of said Indictment, as charged in the twelfth count of said Indictment.

(d) At what specific place, or places, other than the cities, respectively, of Tucson and Phoenix, Arizona, did said defendants, or any thereof, on or about the fourth day of March, 1929, and continuously thereafter, down to and

including the date of finding said indictment, engage in the conspiracy as charged in said accusation.

(e) The names of the respective persons, other than the defendants themselves, with whom it is sought, as alleged in said accusation, to charge the defendants to have unlawfully and feloniously conspired, combined, confederated and agreed, on or about the fourth day of March, 1929, and continuously thereafter, down to and including the date of finding said Indictment.

Answer to Question 22.

That the dates and times set out in the overt acts alleged in the indictment and that the dates and times of the other acts of the defendants and each of them were performed in the organization and the carrying on of the business named in the indictment as disclosed by the testimony at the former trial. [72]

And, as a further answer to all of the questions asked in the defendants' request for a bill of particulars, the Government states that all of the matters requested and not here specifically answered may be found in the transcript of the testimony at the former trial, all of which was testified to in the presence of the defendants and their attorneys.

F. E. FLYNN,

United States Attorney.

K. BERRY PETERSON

Assistant U. S. Attorney. [73]

SCHEDULE LISTING MORTGAGES

Loan No.	Loan in Name of	Date of Loan	Amount of Loan	Description of Property
#6	Tucson Overland Hotel & Investment Co. by William S. Milliner	9-23-29	\$30,000	Lot 7, Block 257, City of Tucson
#2	Phoenix Alvin A. and Pauline Graves	11-5-28	1,800	Lot 6 of Mattise Subdivision
#65	Phoenix Charles J. and Lucille E. Pinney	4-6-31	1,700	Lot 6 of Mattise Subdivision
#7	Tucson Oscar H. Robson	6-20-28	6,000	(E 330' of W 660' of S 330'
#11	Tucson Oscar H. Robson	10-1-28	2,500	(of SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Sec. 8,
#24	Tucson Oscar H. Robson	6-11-31	15,625	(Township 14 S, Range 14 (East of Gila & Salt River (B & M
#6	Phoenix Ida A. Swingle, later assumed by L. W. Drake and later by the First Church of the Nazarene	1-18-30	4,590.51	Lot 12, Block 8, Kenilworth Addition to Phoenix, Arizona
#19	Phoenix R. A. York	3-31-30	5,100	Lot 72 Del Norte Place, Maricopa County
#26	Phoenix Mrs. A. E. Reyburn	7-21-30	8,700	W $\frac{1}{2}$ of NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Sec. 23 T. 1 N. Range 2 East, Gila & Salt River B & M

SCHEDULE LISTING MORTGAGES (Continued)

Loan No.	Loan in Name of	Date of Loan	Amount of Loan	Description of Property
#27	Phoenix Mrs. A. E. Reyburn	7-21-30	\$ 9,700	Lots 8, 9 & 10, McNally Tract, Prescott, Ariz.
#37	Phoenix A. W. & Fannie York	12-4-30	11,500	E $\frac{1}{2}$ of Sec. 12, T. 17 N, R. 19 E, Gila & Salt River B & M; also S $\frac{1}{2}$ of NW $\frac{1}{4}$, E $\frac{1}{2}$ of SW $\frac{1}{4}$ & W $\frac{1}{2}$ of NE $\frac{1}{4}$ of Sec. 10, T. 17 N, R 20 East, with exceptions Navajo County
#38	Phoenix James M. Shumway	12-20-30	11,800	Lot 3, Block 2 of Goldman's Addition to Tempe
#44	Phoenix James M. Shumway	1-12-31	11,800	Lot 3, Block 2 of Goldman's Addition to Tempe
#39	Phoenix Frank Arrington	12-22-30	43,000	Lot 3, Block 2 of Goldman's Addition to Tempe
#41	Phoenix Lyda Dreyfus	12-31-30	32,000	SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Sec. 3; Lot 3, Sec. 3; Lot 1, Sec. 5; all in Township 9 South, Range 18 W, Gila & Salt River B & M

Loan No.	Loan in Name of	Date of Loan	Amount of Loan	Description of Property
#42	Phoenix Frank D. Arrington	12-31-30	\$34,000	SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Sec. 3; Lot 4, Sec. 3; Lot 4, Sec. 4; all in Township 9 South, Range 18 W, Gila & Salt River B & M
				[74]
#47	Phoenix Will and Carrie Sly	1-19-31	5,000	W 180 ft. of lots 1 & 8, Block 15, Mesa
#66	Phoenix Will and Carrie Sly	6-18-31	5,900	Lots 1 & 8, Block 15, Mesa
#67	Phoenix H. W. Durham	6-22-31	6,450	Lots 1 & 8, Block 15, Mesa
#49	Phoenix Carl & Beatrice H. Miller	2-21-31	2,250	S 45 ft. of N 65 ft. of E 150 ft. of Lot 1, Block 15, Mesa
#53	Phoenix Charles J. & Lucille E. Pinney	3-6-31	7,000	S 45 ft. of N 65 ft. of E 150 ft. of Lot 1, Block 15, Mesa
#59	Phoenix George W. & Susan E. Shurts	4-18-31	6,250	Lots 7, 8 & 12, Arizona Temple Addition to Mesa
#60	Phoenix Nancy Belle Flippen	5-2-31	6,800	Lots 5 & 6, Block 35, Capital Addition to Phoenix; also lots 1, 2, 4, & 5, Arizona Temple Addition to Mesa.
	Century Investment Trust	10-1-31	250,427.45	

Received copy of the within Bill of Particulars this 1st day of November, 1937.

LESLIE C. HARDY,
Attorney for Defendants, J. H.
Shreve & A. C. Shreve.

Received copy of within Bill of Particulars the 1st day of November.

GLEN O. PERKINS.

[Endorsed]: Filed Nov. 1, 1937. [75]

[Title of District Court and Cause.]

DEFENDANTS' OBJECTIONS TO AND MOTION TO SUPPLEMENT BILL OF PARTICULARS.

OBJECTIONS TO BILL OF PARTICULARS.

Come now the Defendants, Jesse H. Shreve and Archie C. Shreve, by their attorney hereinafter named, and object to the Bill of Particulars filed herein on November 1, 1937, for the reason that said Bill of Particulars does not comply with the decision of the United States Circuit Court of Appeals for the Ninth Circuit rendered and filed in this Cause upon appeal, and with the order of this Court heretofore made and entered herein requiring Plaintiff to supply these Defendants with a Bill of Particulars in the manner requested by these Defendants in their Supplemental Motion and Demand for Bill of Particulars filed herein, in this:

(a) Said Bill of Particulars is evasive, indefinite, uncertain and incomplete and fails to inform Defendants with particularity of the matters and things requested in said Motion and Demand and Order of the Court.

(b) Said Bill of Particulars, as a whole, and in the parts hereinafter referred to, refers Defendants to the transcript of testimony of a former trial of this cause whereas no official [76] or other transcript of testimony is filed in this cause, none has been approved or authorized by this Court, and none is, or was required or authorized to be, filed in this cause by the laws of the United States, the Rules of this Court, or otherwise;

(c) That said Bill of Particulars does not advise this Court, or Defendants, of what facts Defendants will be required to meet at the retrial of this cause.

(d) That said Bill of Particulars does not advise this Court of the facts which will be produced at the retrial of this Cause with sufficient definiteness and certainty as will permit this Court to limit plaintiff in the admission of evidence to prove the allegations of the Indictment referred to in said Supplemental Motion and Demand for Bill of Particulars, and the Order of this Court requiring said Bill of Particulars.

LESLIE C. HARDY,

Attorney for Defendants, Jesse H.
Shreve and Archie C. Shreve.

MOTION TO SUPPLEMENT BILL OF PARTICULARS.

Comes now the Defendants, Jesse H. Shreve and Archie C. Shreve, by their attorney hereinafter named, but without waiving the foregoing objections to said Bill of Particulars, but again urging the same, and move the Court to require the Plaintiff herein to supplement said Bill of Particulars in the following respects:

That these Defendants, by paragraph 16 of their Supplemental Motion and Demand for Bill of Particulars, requested a more particular statement of the matters and things set forth in the Indictment herein in the following respects:

“Referring to the following portion of the fourth count of said Indictment, to-wit: ‘That the defendants would falsely pretend and represent to the aforesaid persons that the said Century Investment Trust was in [77] a solvent condition financially, whereas, in truth and in fact, as the defendants then and there well knew, the said Century Investment Trust would not be and never was in a solvent condition financially, but would be and was at all times in an insolvent and failing condition,’

“Further particulars is demanded disclosing the financial condition of said Century Investment Trust at the times therein referred to, with particular reference to books of accounts of said Century Investment Trust and of bank or bank accounts pertaining to said Century In-

vestment Trust, disclosing in detail the assets and liabilities of said Century Investment Trust as it appears from said books of accounts or otherwise.”

That Plaintiff, by said Bill of Particulars supplied Defendants with the following particulars:

“Answer to Question 16.

“This question is answered by the books and records of the Century Investment Trust introduced at the former trial, exhibits numbers 110 to 118 inclusive, and as amplified by the testimony of the witness C. K. Fierstone at the former trial.”

That the Bill of Particulars in the foregoing respect does not comply with Defendants’ demand for a Bill of Particulars in that it is evasive, indefinite, and uncertain and incomplete, and requires Defendants themselves to interpret the books and records, exhibits and testimony therein referred to, thereby requiring Defendants, in effect, to supply a Bill of Particulars in said respects.

II.

That these Defendants, by paragraph 17 of their Supplemental Motion and Demand for Bill of Particulars requested a more particular statement of the matters and things set forth in the Indictment herein in the following respects:

“Referring to the following portion of the fourth count of said Indictment, to-wit: ‘That the defendants would falsely pretend and rep-

resent to the aforesaid persons that the said Century Investment Trust had done and was doing a large and profitable business, whereas, in truth and in fact, as the defendants then and there well knew, [78] the said Century Investment Trust never had done, never would do and never did a large or profitable business, and had, in fact, done and would do very little business of any kind, and all such business had been, would be and was at all times small and unprofitable.'

"Further particulars is demanded with respect to a statement of business transacted by the said Century Investment Trust during the time referred to as reflected by the books of said Century Investment Trust, and that a financial statement be supplied as reflected by the books of the said Century Investment Trust disclosing wherein the business of said Century Investment Trust, at said times, was small and unprofitable."

That Plaintiff, by said Bill of Particulars, supplied Defendants with the following particulars:

"Answer to Question 17.

"This question is answered by the books and records of the Century Investment Trust introduced at the former trial, exhibits numbers 110 to 118 inclusive, and as amplified by the testimony of the witness C. K. Fierstone at the former trial."

That the Bill of Particulars in the foregoing respect does not comply with Defendants' demand for a Bill of Particulars in that it is evasive, indefinite, uncertain and incomplete, and requires Defendants themselves to interpret the books and records, exhibits and testimony therein referred to, thereby requiring Defendants, in effect, to supply a Bill of Particulars in said respect.

III.

That these Defendants, by paragraph 18 of their Supplemental Motion and Demand for Bill of Particulars requested a more particular statement of the matters and things set forth in the Indictment herein in the following respects:

“Referring to the following portion of the fourth count of said Indictment, to-wit:

‘That the defendants would falsely pretend and represent to the aforesaid persons, and would falsely promise them, that the said [79] Century Investment Trust had and would have net earnings and net income out of which dividends could and would be paid to its stockholders, whereas, in truth and in fact, as the defendants then and there well knew, the said Century Investment Trust never had and never would or did have any net earnings or any net income, and no dividends could or would be or ever were paid out of any such earnings or income.’

“Further particulars is demanded as to the financial calculations, and the source or sources

from which said calculations is derived, upon which the charges is based that said Century Investment Trust never had any net earnings or net income.

That Plaintiff, by said Bill of Particulars, supplied Defendants with the following particulars:

“Answer to Question 18.

“This is shown by the books of the Century Investment Trust, exhibits numbers 110 to 118 inclusive, introduced at the former trial and the testimony of C. K. Fierstone, whose testimony may be found in the transcript of the record.”

That the Bill of Particulars *is* the foregoing respect does not comply with Defendants' demand for a Bill of Particulars in that it is evasive, indefinite, uncertain, and incomplete, and requires Defendants themselves to interpret the books and records, exhibits and testimony therein referred to, thereby requiring Defendants, in effect, to supply a Bill of Particulars in said respects.

IV.

That these Defendants, by paragraph 19 of their Supplemental Motion and Demand for Bill of Particulars, requested a more particular statement of the matters and things set forth in the Indictment herein in the following respects:

“Referring to the following portion of the fourth count of said Indictment, to-wit:

‘That the defendants would falsely pretend and represent to the aforesaid persons that [80] the dividends actually paid by the said Century Investment Trust to its stockholders had been and were paid out of the net earnings and net income of the said Century Investment Trust, whereas, in truth and in fact, as the defendants then and there well knew, such dividends had not been, would not be and were not paid out of any earnings or any income, of the said Century Investment Trust, but all such dividends had been, would be and were paid out of funds which the defendants had supplied and caused to be supplied to the said Century Investment Trust for that purpose, and had been, would be and were so paid for the purpose of inducing the aforesaid persons to believe that the said Century Investment Trust did and would have net earnings and net income out of which other and further dividends could and would be paid, which belief, as the defendants then and there well knew, was wholly false and unfounded.’

“Further particulars is demanded as to when and in what manner the defendants falsely pretended and represented to said persons, naming them, that dividends paid by the Century Investment Trust were paid out of funds which defendants had supplied and caused to be supplied to said Century Investment Trust for that purpose, and the amount of funds so supplied by said defendants, and the times said funds were so supplied.”

That Plaintiff, by said Bill of Particulars, supplied Defendants with the following particulars:

“Answer to Question 19.

“This question cannot be answered because nowhere in the indictment is there an allegation that the defendants falsely pretended and represented that the dividends paid by the Century Investment Trust were paid out of funds which defendants supplied or caused to be supplied for that purpose.”

That contrary to the foregoing particulars, Defendants assert, that by paragraph 6 of the Fourth Count of the Indictment herein, it is alleged, with reference to the payment of dividends by said Century Investment Trust that “all such dividends had been, would be and were paid out of funds which the defendants had supplied and caused to be supplied to the said Century Investment Trust for that purpose,” and that by reason of said allegation of said Indictment, Defendants are entitled and now request, to a more specific Bill of Particulars in said [81] respect.

V.

That these Defendants, by paragraph 20 of their Supplemental Motion and Demand for Bill of Particulars, requested a more particular statement of the matters and things set forth in the Indictment herein in the following respects:

“Referring to the following portion of the fourth count of said Indictment, to-wit:

‘That by means of said false pretenses, representations and promises, so made and caused to be made by the defendants as aforesaid, large sums of money and large amounts of property would be obtained from the aforesaid persons in exchange for the stock of the said Century Investment Trust.’

“Further particulars is demanded respecting the names of the persons and the times to whom said false pretenses, representations and promises were made, and the amount of money, and the description of the property, which were obtained from said persons in exchange for said stock of Century Investment Trust, and the times said money and property were so obtained.”

That Plaintiff, by said Bill of Particulars, supplied Defendants with the following particulars:

“Answer to Question 20.

“To each of the persons named in the fourth count of the indictment and to each of the persons who purchased stock in the Century Investment Trust, whose names are listed in the books of the company introduced at the former trial, exhibits numbers 110 to 118 inclusive, and to the public generally. The amount of money and description of property and the time such money and property was so obtained is to be found in the record of the former trial of this case and particularly in the books and records of the company introduced at the former

trial and the testimony of the witness C. K. Fierstone.”

That the Bill of Particulars in the foregoing respect does not comply with Defendants’ demand for a Bill of Particulars in that it is evasive, indefinite, uncertain, and incomplete, and requires Defendants themselves to interpret the books and records, exhibits and testimony therein referred to, thereby [82] requiring Defendants, in effect, to supply a Bill of Particulars in said respects.

VI.

That these Defendants, by paragraph 22 of their Supplemental Motion and Demand for Bill of Particulars, requested a more particular statement of the matters and things set forth in the Indictment herein in the following respects:

“Referring to the following portion of the twelfth county of said Indictment, to-wit:

‘And the Grand Jurors aforesaid, on their oath aforesaid, do further present that Jesse H. Shreve, Archie C. Shreve, Daniel H. Shreve, Glen O. Perkins and W. C. Evans, the identical persons named in the eleven preceding counts of this indictment, hereinafter referred to as the defendants, heretofore, to-wit: on or about the 4th day of March, 1929, and continuously thereafter down to and including the date of finding this indictment, at Tucson, Arizona, and at Phoenix, Arizona, both within the State and District of Arizona and within the jurisdiction

of this Court, and at divers other places to the Grand Jurors unknown, did wilfully, knowingly, unlawfully and feloniously conspire, combine, confederate and agree among themselves and with each other and with other persons whose names are to the Grand Jurors unknown, to commit certain offenses against the United States, in the manner and by the means following, to-wit:’

“Further particulars is demanded respecting said accusation in the following respects, to-wit:

“(a) As to the ‘other places to the Grand Jurors unknown’, at which the defendants conspired, combined, confederated and agreed among themselves and with each other.

“(b) As to the names of ‘the other persons’ whose names were unknown to the Grand Jurors who return the Indictment herein.

“(c) At what specific time or times, and on what specific occasion or occasions, subsequent to the fourth day of March, 1929, did said defendants unlawfully, and feloniously conspire, combine, confederate and agree among themselves, and with each other, and among other persons, and, thereby, effect the continuity of said alleged conspiracy from and after said fourth day of March, 1929, and down to and including the date of the finding of said Indictment, as charged in the twelfth count of said indictment. [83]

“(d) At what specific place, or places, other than the cities, respectively, of Tucson and Phoenix, Arizona, did said defendants, or any thereof, on or about the fourth day of March, 1929, and continuously thereafter, down to and including the date of finding said Indictment, engage in the conspiracy as charged in said accusation.

“(e) The names of the respective persons, other than the defendants themselves, with whom it is sought, as alleged in said accusation, to charge the defendants to have unlawfully and feloniously conspired, combined, confederated and agreed, on or about the fourth day of March, 1929, and continuously thereafter, down to and including the date of finding said Indictment.”

That Plaintiff, by said Bill of Particulars, supplied Defendants with the following particulars:

“Answer to Question 22.

“That the dates and times set out in the overt acts alleged in the indictment and that the dates and times of the other acts of the defendants and each of them were performed in the organization and the carrying on of the business named in the indictment as disclosed by the testimony at the former trial.”

That the Bill of Particulars in the foregoing respect does not comply with Defendants' demand for a Bill of Particulars in that it is evasive, indefinite, uncertain and incomplete, and requires Defendants

themselves to interpret the testimony therein referred to, thereby requiring Defendants, in effect, to supply a Bill of Particulars in said respect.

VII.

That for an attempted compliance with the Order of this Court requiring Plaintiff to give Defendants a Bill of Particulars, Plaintiff, by the last paragraph of said Bill of Particulars, states:

“And, as a further answer to all of the questions asked in the defendants’ request for a bill of particulars, the Government states that all of the matters requested and not here specifically answered may be found in the transcript of the testimony at the former trial, all of which was testified to in the presence of [84] the defendants and their attorneys.”

That it appears from the foregoing that the whole of said Bill of Particulars is evasive, indefinite, uncertain and incomplete in that it refers Defendants to the transcript of testimony given at the former trial of this case and requires Defendants themselves to interpret the testimony therein referred to, thereby requiring Defendants, in effect, to supply a Bill of Particulars in all the respects requested by Defendants and as ordered by this Court.

Wherefore, Defendants pray:

(a) That Plaintiff be required to supplement said Bill of Particulars in respect to all the matters referred to in paragraphs I to VI herein inclusive;

(b) That thereupon the remainder of said Bill of Particulars be supplemented in respect to the

matters omitted in said Bill of Particulars as disclosed by the last paragraph thereof, and by paragraph VII hereof.

LESLIE C. HARDY

Attorney for Defendants Jesse H.
Shreve and Archie C. Shreve.

Service of the foregoing admitted this 3rd day of December, 1937.

F. E. FLYNN

United States Attorney

[Endorsed]: Filed Dec. 6, 1937. [85]

[Title of District Court and Cause.]

October 1937 Term

At Phoenix

MINUTE ENTRY OF
MONDAY, DECEMBER 27, 1937
(Tucson General Minutes)

Honorable Dave W. Ling, United States District
Judge, Presiding.

Defendants' Motion for List of Witnesses comes on regularly for hearing this day.

Frank E. Flynn, Esquire, United States Attorney, and George E. Wood, Esquire, Assistant United States Attorney, appear for the Government. Leslie C. Hardy, Esquire, appears as counsel for the defendants.

Argument is now had by respective counsel, and said motion for list of witnesses is submitted and by the Court taken under advisement.

Subsequently, defendants' motion for list of witnesses having been submitted and by the Court taken under advisement and the Court having duly considered the same and being fully advised in the premises,

It is ordered that said motion for list of witnesses be and it is denied and the defendants allowed an exception.

Defendants' Motion for Supplemental Bill of Particulars and Defendants' Objections to Bill of Particulars having been submitted and by the Court taken under advisement, and the Court having duly considered the same and being fully advised in the premises, [86]

It is ordered that said motion for supplemental Bill of Particulars be and it is denied and the defendants allowed an exception, and that said objections to Bill of Particulars be and the same are overruled and the defendants allowed an exception to the ruling on each of said objections. [87]

[Title of District Court and Cause.]

October 1937 Term

At Phoenix

MINUTE ENTRY OF
TUESDAY, JANUARY 11, 1938
(Tucson General Minutes)

Honorable Dave W. Ling, United States District Judge, Presiding.

This case comes on regularly for trial this day. Frank E. Flynn, Esquire, United States Attorney,

and K. Berry Peterson, Esquire, Assistant United States Attorney, appear for the Government. The defendants, Jesse H. Shreve and Archie C. Shreve, are present in person with their counsel, Leslie Hardy, Esquire, and George Shreve, Esquire.

Defendants' General and Special Demurrers to Indictment having been heretofore argued, submitted and by the Court taken under advisement, and the Court having duly considered the same and being fully advised in the premises,

It is ordered that said General and Special Demurrers to Indictment be and the same are overruled and that each of said defendants be allowed an exception to the ruling of the Court on each of said Demurrers. * * * [88]

[Title of District Court and Cause.]

MOTION BY DEFENDANTS JESSE H.
SHREVE AND ARCHIE C. SHREVE
TO DIRECT VERDICT

Now comes Jesse H. Shreve and Archie C. Shreve, defendants in the above entitled cause, by their counsel, Leslie C. Hardy, at the close of all the evidence offered in behalf of the plaintiff, and before the receipt of any evidence on the part of said defendants, or either of them, and move the Court to direct the jury to find them, the said defendants, and each of them, not guilty of the alleged offense charged in the First Count of the Indictment herein, upon the following grounds:

1. That no offense against the laws of the United States is charged in the said count of the said indictment.

2. That the evidence adduced does not tend to prove that the said defendants, or either of them, are guilty in manner and form as charged in the said count in the said indictment.

3. There is not sufficient competent evidence adduced to prove the commission by the said defendants, or either of them, of the alleged offense set forth in the said count of the indictment herein.

4. The evidence adduced is insufficient to prove the commission by the said defendants, or either of them, of the alleged offense charged in the said count of the said indictment. [89]

5. The evidence adduced is insufficient to prove that the said defendants, or either of them, placed or caused to be placed in the United States Post Office within the District of Arizona the envelope, letter, and one page sheet, set forth in the said count of the said indictment.

6. That the matters mailed, as alleged in said count, is wholly insufficient to show or prove that said defendants, or either of them, did, or could, thereby execute the scheme or artifice therein referred to.

7. There is a variance between the charge in the said count of the indictment and the evidence adduced in the proof thereof, in the following respects:

(a) There is no evidence that the said defendants, or either of them, devised or intended to devise any schemes and/or artifice for obtaining money from the persons named in the said count of the said indictment.

(b) The evidence adduced does not tend to prove that the said defendants, or either of them, devised or intended to devise any scheme and/or artifice for obtaining money from the persons named in the indictment by means of the particular false pretenses, and/or representations, and/or promises in the said first count of the said indictment set forth.

(c) The evidence adduced does not prove or tend to prove the alleged offense charged in the said first count of the indictment; but on the other hand, the said evidence tends only to prove the commission by the said defendants of a large number of other and different offenses than those with which they are charged in the said indictment, none of which are cognizable under the laws of the United States.

And the said defendants further move the court to direct the jury to find them, the said defendants, not guilty of the [90] alleged offense charged in the Second Count of the Indictment herein, upon the following grounds:

1. That no offense against the laws of the United States is charged in the said count of the said indictment.

2. That the evidence adduced does not tend to prove that the said defendants, or either of them,

are guilty in manner and form as charged in the said count in the said indictment.

3. There is not sufficient competent evidence adduced to prove the commission by the said defendants, or either of them, of the alleged offense set forth in the said count of the indictment herein.

4. The evidence adduced is insufficient to prove the commission by the said defendants, or either of them, of the alleged offense charged in the said count of the said indictment.

5. The evidence adduced is insufficient to prove that the said defendants, or either of them, placed or caused to be placed in the United States Post Office within the District of Arizona the envelope and deposit slip, as set forth in the said count of the said indictment.

6. That the matter mailed, as alleged in said count, is wholly insufficient to show or prove that said defendants, or either of them, did, or could, thereby execute the scheme or artifice therein referred to.

7. There is a variance between the charge in the said count of the indictment and the evidence adduced in the proof thereof, in the following respects:

(a) There is no evidence that the said defendants, or either of them, devised or intended to devise any scheme and/or artifice for obtaining money from the persons named in the said count of the said indictment.

(b) The evidence adduced does not tend to prove that the said defendants, or either of them, devised

or intended [91] to devise any scheme and/or artifice for obtaining money from the persons named in the indictment by means of the particular false pretenses, and/or representations, and/or promises in the said second count of the said indictment set forth.

(c) The evidence adduced does not prove or tend to prove the alleged offense charged in the said second count of the indictment; but on the other hand, the said evidence tends only to prove the commission by the said defendants of a large number of other and different offenses than these with which they are charged in the said indictment, none of which are cognizable under the laws of the United States.

And the said defendants further move the court to direct the jury to find them, the said defendants, not guilty of the alleged offense charged in the Third Count of the Indictment herein, upon the following grounds:

1. That no offense against the laws of the United States is charged in the said count of the said indictment.

2. That the evidence adduced does not tend to prove that the said defendants, or either of them, are guilty in manner and form as charged in the said count in the said indictment.

3. There is not sufficient competent evidence adduced to prove the commission by the said defendants, or either of them, of the alleged offense set forth in the said count of the indictment herein.

4. The evidence adduced is insufficient to prove the commission by the said defendants, or any of them, of the alleged offense charged in the said count of the said indictment.

5. The evidence adduced is insufficient to prove that the said defendants, or either of them, placed or caused to be placed in the United States Post Office within the District [92] of Arizona the envelope and letter set forth in the said count of the said indictment.

6. That the matter mailed, as alleged in said count, is wholly insufficient to show or prove that said defendants, or either of them, did, or could, thereby execute the scheme or artifice therein referred to.

7. There is a variance between the charge in the said count of the indictment and the evidence adduced in the proof thereof, in the following respects:

(a) There is no evidence that the said defendants, or either of them, devised or intended to devise any scheme and/or artifice for obtaining money from the persons named in the said count of the said indictment.

(b) The evidence adduced does not tend to prove that the said defendants, or either of them, devised or intended to devise any scheme and/or artifice for obtaining money from the persons named in the indictment by means of the particular false pretenses, and/or representations, and/or promises in the said third count of the said indictment set forth.

(c) The evidence adduced does not prove or tend to prove the alleged offense charged in the said third count of the indictment; but on the other hand, the said evidence tends only to prove the commission by the said defendants of a large number of other and different offenses than those with which they are charged in the said indictment, none of which are cognizable under the laws of the United States.

And the said defendants further move the court to direct the jury to find them, the said defendants, not guilty of the alleged offense charged in the Fourth Count of the Indictment herein, upon the following grounds: [93]

1. That no offense against the laws of the United States is charged in the said count of the said indictment.

2. That the evidence adduced does not tend to prove that the said defendants, or either of them, are guilty in manner and form as charged in the said count in the said indictment.

3. There is not sufficient competent evidence adduced to prove the commission by the said defendants, or either of them, of the alleged offense set forth in the said count of the indictment herein.

4. The evidence adduced is insufficient to prove the commission by the said defendants, or either of them, of the alleged offense charged in the said count of the said indictment.

5. The evidence adduced is insufficient to prove that the said defendants, or either of them, placed or caused to be placed in the United States Post

Office within the District of Arizona the envelope and letter set forth in the said fourth count of the said indictment.

6. That the matter mailed, as alleged in said count, is wholly insufficient to show or prove that said defendants, or either of them, did, or could, thereby execute the scheme or artifice therein referred to.

7. There is a variance between the charge in the said count of the indictment and the evidence adduced in the proof thereof, in the following respects:

(a) There is no evidence that the said defendants, or either of them, devised or intended to devise any scheme and/or artifice for obtaining money from the persons named in the said fourth count of the said indictment.

(b) The evidence adduced does not tend to prove that the said defendants, or either of them, devised or intended to [94] devise any scheme and/or artifice for obtaining money from the persons named in the indictment by means of the particular false pretenses, and/or representations, and/or promises in the said fourth count of the said indictment set forth.

(c) The evidence adduced does not prove or tend to prove the alleged offense charged in the said Fourth count of the Indictment; but on the other hand, the said evidence tends only to prove commission by the said defendants of a large number of other and different offenses than those with

which they are charged in the said indictment, none of which are cognizable under the laws of the United States.

And the said defendants further move the court to direct the jury to find them, the said defendants, not guilty of the alleged offense charged in the Fifth Count of the Indictment herein, upon the following grounds:

1. That no offense against the laws of the United States is charged in the said count of the said indictment.

2. That the evidence adduced does not tend to prove that the said defendants, or either of them, are guilty in manner and form as charged in the said count in the said indictment.

3. There is not sufficient competent evidence adduced to prove the commission by the said defendants, or either of them, of the alleged offense set forth in the said count of the indictment herein.

4. The evidence adduced is insufficient to prove the commission by the said defendants, or either of them, of the alleged offense charged in the said count of the said indictment.

5. The evidence adduced is insufficient to prove that the said defendants, or either of them, caused to be delivered by mail the letter set forth in the said count of the said indictment. [95]

6. That the matter mailed, as alleged in said count, is wholly insufficient to show or prove that said defendants, or either of them, did, or could, thereby execute the scheme or artifice therein referred to.

7. There is a variance between the charge in the said count of the indictment and the evidence adduced in the proof thereof, in the following respects:

(a) There is no evidence that the said defendants, or either of them, devised or intended to devise any scheme and/or artifice for obtaining money from the persons named in the said count of the said indictment.

(b) The evidence adduced does not tend to prove that the said defendants, or either of them, devised or intended to devise any scheme and/or artifice for obtaining money from the persons named in the indictment by means of the particular false pretenses, and/or representations, and/or promises in the said fifth count of the said indictment set forth.

(c) The evidence adduced does not prove or tend to prove the alleged offense charged in the said fifth count of the indictment; but on the other hand, the said evidence tends only to prove the commission by the said defendants of a large number of other and different offenses than those with which they are charged in the said indictment, none of which are cognizable under the laws of the United States.

And the said defendants further move the Court to direct the jury to find them, the said defendants not guilty of the alleged offense charged in the Sixth Count of the Indictment herein, upon the following grounds:

1. That no offense against the laws of the United States is charged in the said Sixth Count of the said indictment.

2. That the evidence adduced does not tend to prove [96] that the defendants, or either of them, are guilty in manner and form as charged in the said count in the said indictment.

3. There is not sufficient competent evidence adduced to prove the commission by the said defendants, or either of them, of the alleged offense set forth in the said count of the indictment herein.

4. The evidence adduced is insufficient to prove the commission by the said defendants, or either of them, of the alleged offense charged in the said sixth count of the said indictment.

5. The evidence adduced is insufficient to prove that the said defendants, or either of them, caused to be delivered by mail the letter and envelope set forth in the said sixth count of the said indictment.

6. That the matter mailed, as alleged in said count, is wholly insufficient to show or prove that said defendants, or either of them, did, or could, thereby execute the scheme or artifice therein referred to.

7. There is a variance between the charge in the said count of the said indictment and the evidence adduced in the proof thereof, in the following respects:

(a) There is no evidence that the said defendants, or either of them, devised or intended to devise any scheme and/or artifice for obtaining money from the persons named in the said sixth count of the said indictment.

(b) The evidence adduced does not tend to prove that the said defendants, or either of them, devised or intended to devise any scheme and/or artifice for obtaining money from the persons named in the indictment by means of the particular false pretenses, and/or representations, and/or promises in the said sixth count of the said indictment set forth.

[97]

(c) The evidence adduced does not prove or tend to prove the alleged offense charged in the said sixth count of the indictment; but, on the other hand, the said evidence tends only to prove the commission by the said defendants of a large number of other and different offenses than those with which they are charged in the said indictment, none of which are cognizable under laws of the United States.

And the said defendants further move the Court to direct the jury to find them, the said defendants, not guilty of the alleged offense charged in the Seventh Count of the Indictment herein, upon the following grounds:

1. That no offense against the laws of the United States is charged in the said count of the said indictment.

2. That the evidence adduced does not tend to prove that the said defendants, or either of them, are guilty in manner and form as charged in the said count in the said indictment.

3. There is not sufficient competent evidence adduced to prove the commission by the said defend-

ants, or either of them, of the alleged offense set forth in the said count of the indictment herein.

4. The evidence adduced is insufficient to prove the commission by the said defendants, or either of them, of the alleged offense charged in the said count of the said indictment.

5. The evidence adduced is insufficient to prove that the said defendants, or either of them, caused to be delivered by mail the letter and envelope set forth in the said seventh count of the said indictment.

6. That the matter mailed, as alleged in said count, is wholly insufficient to show or prove that said defendants, or either of them, did, or could, thereby execute the scheme or [98] artifice therein referred to.

7. There is a variance between the charge in the said count of the said indictment and the evidence adduced in the proof thereof, in the following respects:

(a) There is no evidence that the said defendants, or either of them, devised or intended to devise any scheme and/or artifice for obtaining money from the persons named in the said count of the said indictment.

(b) The evidence adduced does not tend to prove that the said defendants, or either of them, devised or intended to devise any scheme and/or artifice for obtaining money from the persons named in the indictment by means of the particular false pretenses, and/or representations, and/or promises in

the said seventh count of the said indictment set forth.

(c) The evidence adduced does not prove or tend to prove the alleged offense charged in the said seventh count of the indictment; but on the other hand, the said evidence tends only to prove the commission by the said defendants of a large number of other and different offenses than those with which they are charged in the said indictment, none of which are cognizable under laws of the United States.

And the said defendants further move the Court to direct the jury to find them, the said defendants, not guilty of the alleged offense charged in the Eighth Count of the Indictment herein, upon the following grounds:

1. That no offense against the laws of the United States is charged in the said count of the said indictment.

2. That the evidence adduced does not tend to prove that the said defendants, or either of them, are guilty in manner and form as charged in the said count in the said indictment. [99]

3. There is not sufficient competent evidence adduced to prove the commission by the said defendants, or either of them, of the alleged offense set forth in the said count of the indictment herein.

4. The evidence adduced is insufficient to prove the commission by the said defendants, or either of them, of the alleged offense charged in the said count of the said indictment.

5. The evidence adduced is insufficient to prove that the said defendants, or either of them, placed or caused to be placed in the United States Post Office within the District of Arizona the letter and envelope set forth in the said eighth count of the said indictment.

6. That the matter mailed, as alleged in said count, is wholly insufficient to show or prove that said defendants, or either of them, did, or could, thereby execute the scheme or artifice therein referred to.

7. There is a variance between the charge in the said count of the indictment and the evidence adduced in the proof thereof, in the following respects:

(a) There is no evidence that the said defendants, or either of them, devised or intended to devise any scheme and/or artifice for obtaining money from the persons named in the said count of the said indictment.

(b) The evidence adduced does not tend to prove that the said defendants, or either of them, devised or intended to devise any scheme and/or artifice for obtaining money from the persons named in the indictment by means of the particular false pretenses, and/or representations, and/or promises in the said eighth count of the said indictment set forth.

(c) The evidence adduced does not prove or tend to prove the alleged offense charged in the said eighth count of the indictment; but on the other hand the said evidence tends [100] only to prove the

commission by the said defendants of a large number of other and different offenses than those with which they are charged in the said indictment, none of which are cognizable under laws of the United States.

And the said defendants further move the Court to direct the jury to find them, the said defendants, not guilty of the alleged offense charged in the Ninth Count of the Indictment herein, upon the following grounds:

1. That no offense against the laws of the United States is charged in the said count of the said indictment.

2. That the evidence adduced does not tend to prove that the said defendants, or either of them, are guilty in manner and form as charged in the said count in the said indictment.

3. There is not sufficient competent evidence adduced to prove the commission by the said defendants, or either of them, of the alleged offense set forth in the said count of the indictment herein.

4. The evidence adduced is insufficient to prove the commission by the said defendants, or either of them, of the alleged offense charged in the said count of the said indictment.

5. The evidence adduced is insufficient to prove that the said defendants, or either of them, placed or caused to be placed, in the United States Post Office within the District of Arizona, the letter and envelope set forth in the said count of the said indictment.

6. That the matter mailed, as alleged in said count, is wholly insufficient to show or prove that said defendants, or either of them, did, or could, thereby execute the scheme or artifice therein referred to.

7. There is a variance between the charge in the said [101] count of the indictment and the evidence adduced in the proof thereof, in the following respects:

(a) There is no evidence that the said defendants, or either of them, devised or intended to devise any scheme and/or artifice for obtaining money from the persons named in the said ninth count of the said indictment.

(b) The evidence adduced does not tend to prove that the said defendants, or either of them, devised or intended to devise any scheme and/or artifice for obtaining money from the persons named in the indictment by means of the particular false pretenses, and/or representations, and/or promises in the said ninth count of the said indictment set forth.

(c) The evidence adduced does not prove or tend to prove the alleged offense charged in the said ninth count of the indictment; but on the other hand the said evidence tends only to prove the commission by the said defendants of a large number of other and different offenses than those with which they are charged in the said indictment, none of which are cognizable under laws of the United States.

And the said defendants further move the Court to direct the jury to find them, the said defendants, not guilty of the alleged offense charged in the Tenth Count of the Indictment herein, upon the following grounds:

1. That no offense against the laws of the United States is charged in the said count of the said indictment.

2. That the evidence adduced does not tend to prove that the said defendants, or either of them, are guilty in manner and form as charged in the said count in the said indictment.

3. There is not sufficient competent evidence adduced to prove the commission by the said defendants, or either of them, of the alleged offense set forth in the said count of the indictment [102] herein.

4. The evidence adduced is insufficient to prove the commission by the said defendants, or either of them, of the alleged offense charged in the said count of the said indictment.

5. The evidence adduced is insufficient to prove that the said defendants, or either of them, placed or caused to be placed in the United States Post Office within the District of Arizona the letter and envelope set forth in the said count of the said indictment.

6. That the matter mailed, as alleged in said count, is wholly insufficient to show or prove that said defendants, or either of them, did, or could,

thereby execute the scheme or artifice therein referred to.

7. There is a variance between the charge in the said count of the indictment and the evidence adduced in the proof thereof, in the following respects:

(a) There is no evidence that the said defendants, or either of them, devised or intended to devise any scheme and/or artifice for obtaining money from the persons named in the said tenth count of the said indictment.

(b) The evidence adduced does not tend to prove that the said defendants, or either of them, devised or intended to devise any scheme and/or artifice for obtaining money from the persons named in the indictment by means of the particular false pretenses, and/or representations, and/or promises in the said tenth count of the said indictment set forth.

(c) The evidence adduced does not prove or tend to prove the alleged offense charged in the said tenth count of the indictment; but on the other hand the said evidence tends only to prove the commission by the said defendants of a large number of other and different offenses than those with which they [103] are charged in the said indictment, none of which are cognizable under laws of the United States.

And the said defendants further move the Court to direct the jury to find them, the said defendants, not guilty of the alleged offense charged in the Eleventh Count of the Indictment herein, upon the following grounds:

1. That no offense against the laws of the United States is charged in the said count of the said indictment.

2. That the evidence adduced does not tend to prove that the said defendants, or either of them, are guilty in manner and form as charged in the said count in the said indictment.

3. There is not sufficient competent evidence adduced to prove the commission by the said defendants, or either of them, of the alleged offense set forth in the said count of the indictment herein.

4. The evidence adduced is insufficient to prove the commission by the said defendants, or either of them, of the alleged offense charged in the said count of the said indictment.

5. The evidence adduced is insufficient to prove that the said defendants, or either of them, placed or caused to be placed in the United States Post office within the District of Arizona the letter and envelope set forth in the said count of the said indictment.

6. That the matter mailed, as alleged in said count, is wholly insufficient to show or prove that said defendants, or either of them, did, or could, hereby execute the scheme or artifice therein referred to.

7. There is a variance between the charge in the said count of the indictment and the evidence adduced in the proof thereof, in the following respects:

(a) There is no evidence that the said defendants, or either of them, devised or intended to devise any scheme and/or artifice for obtaining money from the persons named in the said eleventh count of the said indictment.

(b) The evidence adduced does not tend to prove that the said defendants, or either of them, devised or intended to devise any scheme and/or artifice for obtaining money from the persons named in the indictment by means of the particular false pretenses, and/or representations, and/or promises in the said eleventh count of the said indictment set forth.

(c) The evidence adduced does not prove or tend to prove the alleged offense charged in the said eleventh count of the indictment; but on the other hand the said evidence tends only to prove the commission by the said defendants of a large number of other and different offenses than those with which they are charged in the said indictment, none of which are cognizable under laws of the United States.

GEORGE H. SHREVE

LESLIE C. HARDY

Attorneys for said Defendants.

[Endorsed]: Filed Feb. 2, 1938. [105]

[Title of District Court and Cause.]

MOTION TO STRIKE EVIDENCE.

Come now Jesse H. Shreve and Archie C. Shreve, defendants in the above entitled cause, by their counsel, Leslie C. Hardy and George H. Shreve, and move the Court to strike from the evidence offered and received on behalf of the plaintiff in the above-entitled action, the following books, records, documents and other evidence, to-wit:

Exhibit

- | No. | Description of Exhibits. |
|-----|---|
| 4 | Articles of Incorporation of Arizona Holding Corporation. |
| 5 | Application to Arizona Corporation Commission for a permit to sell stock in Arizona Holding Corporation. |
| 6 | Permit No. 6060 to sell stock of Arizona Holding Corporation granted by Arizona Corporation Commission. |
| 7 | Quarterly report of sales of securities of Arizona Holding Corporation for period June 9, 1928 to Sept. 8, 1928. |
| 8 | Quarterly report of sales of securities of Arizona Holding Corporation for period Sept. 3, 1928 to Dec. 3, 1928. |
| 9 | Quarterly report of sales of securities of Arizona Holding Corporation for period Dec. 6, 1928 to Mar. 5, 1929. |
| 10 | Quarterly report of sales of securities of Arizona Holding Corporation for period Mar. 9, 1929 to June 8, 1929. [106] |

Exhibit

- | No. | Description of Exhibits. |
|-----|--|
| 13 | Quarterly report receipts and expenditures Arizona Holding Corporation Dec. 6, 1928 to Mar. 5, 1929. |
| 14 | Quarterly report receipts and expenditures Arizona Holding Corporation Mar. 7, 1929 to June 7, 1929. |
| 15 | Annual report Arizona Holding Corporation for fiscal year ending June 30, 1930. |
| 16 | Certificate of Incorporation of Arizona Holding Corporation. |
| 17 | 4 letters dated Jan. 24, 1929, to Arizona Corporation Commission signed respectively by E. T. Cusick, G. H. Sawyer, Geo. D. Bedell and H. H. Holbert. |
| 18 | Letter dated Jan. 26, 1929, to Arizona Corporation Commission, signed by E. T. Cusick. |
| 19 | Special Order #377, Arizona Corporation Commission in re application of Arizona Holding Corporation for permission to withdraw certain of its funds from escrow. |
| 20 | Letter dated Feb. 7, 1929, to Arizona Corporation Commission, signed by E. T. Cusick, and inclosure mentioned therein. |
| 21 | Telegram signed E. T. Cusick to Maebelle Craig, dated Mar. 8, 1929. |
| 22 | Telegram dated Mar. 8, 1929, to Arizona Corporation Commission signed E. T. Cusick. |

Exhibit

- | No. | Description of Exhibits. |
|-----|--|
| 23 | Telegram dated Mar. 9, 1929, to Arizona Corporation Commission signed E. T. Cusick. |
| 24 | Copy of telegram to E. T. Cusick signed McBride, Arizona Corporation Commission. |
| 25 | Telegram dated Mar. 11, 1929, to Arizona Corporation Commission signed E. T. Cusick. |
| 26 | Telegram dated Mar. 11, 1929 to Arizona Corporation Commission signed E. T. Cusick. |
| 28 | Telegram dated Mar. 11, 1929, to E. T. Cusick, signed McBride, Arizona Corporation Commission. |
| 29 | Letter dated Mar. 11, 1929, to Arizona Corporation Commission, signed E. T. Cusick. |
| 30 | Letter dated Mar. 14, 1929, to Arizona Corporation Commission, signed E. T. Cusick. |
| 31 | Telegram dated Mar. 18, 1929, to E. T. Cusick, signed Arizona Corporation Commission. [107] |
| 32 | Telegram dated Mar. 17, 1929, to Arizona Corporation Commission signed E. T. Cusick. |
| 33 | Articles of Incorporation of Security Building and Loan Association. |
| 34 | By-Laws of Security Building and Loan Association. |
| 36 | Appointment of Agent, signed J. H. Shreve. |
| 37 | Annual report of Security Building and Loan Association June 30, 1929. |

Exhibit

No.	Description of Exhibits.
38	Annual report of Security Building and Loan Association June 30, 1930.
46	Quarterly report Century Investment Trust Jan. 1, 1930 to June 6, 1930.
48	Statement of Century Investment Trust June 30, 1930.
49	Annual report Century Investment Trust June 30, 1930.
58	Longhand notes of meeting of board of directors of Security Building and Loan Association and Arizona Holding Corporation.
59	Copy of telegram dated Mar. 5, 1929, to J. H. Shreve, signed by E. T. Cusick.
61	General Ledger Century Investment Trust.
62	Cash received, check record, sales record, insurance record, Century Investment Trust.
63	Journal, notes receivable, accounts receivable, insurance accounts receivable, and notes payable record of Century Investment Trust.
64	Accounts Receivable, Century Investment Trust.
65	Capital Stock Journal, Century Investment Trust.
66	Stockholders Ledger, Century Investment Trust.
67	Stockholders Ledger, Century Investment Trust.

Exhibit

- | No. | Description of Exhibits. |
|-----|--|
| 68 | Stockholders Ledger, Century Investment Trust. |
| 69 | Cash received, check record, journal and general ledger, Arizona Holding Corporation. |
| 70 | Stockholders Ledger, Arizona Holding Corporation. |
| 71 | General Ledger, Security Building and Loan Association. |
| 72 | General Journal and check record, Security Building and Loan Association. [108] |
| 73 | Loan Ledger, Security Building and Loan Association. |
| 74 | Daily Cash sheets, Security Building and Loan Association. |
| 75 | Minute Book, stock journal and stock ledger, Security Building and Loan Association. |
| 77 | General Ledger, Security Building and Loan Assn. |
| 78 | General Ledger, Security Building and Loan Assn. |
| 79 | Check dated Dec. 31, 1930, payable to Jas. M. Shumway, signed: Security Building and Loan Association. |
| 80 | Check dated Dec. 27, 1930, payable to Jas. M. Shumway, signed: Security Building and Loan Association. |
| 81 | General Ledger Sheet. |
| 82 | Record of certificates of deposit issued. |

Exhibit

No.	Description of Exhibits.
83	General Ledger Sheet.
84	Daily statement of First National Bank.
85	Certificate of deposit #14, First National Bank, in sum of \$10,000.
86	Certificate of deposit #15 ditto
87	“ “ “ #16 ditto
88	“ “ “ #17 ditto
89	“ “ “ \$18 ditto
91	Debit memo, J. E. Shreve, G. O. Perkins, J. G. Cash.
92	Ledger card, Jos. E. Shreve.
93	“ “ G. O. Perkins.
94	“ “ J. G. Cash.
95	P.125, Bills Receivable Ledger.
96	Draft for \$30,000 on First National Bank, drawn by Security Building and Loan Assn.
97	Debit memo, other bonds and securities, May 28, 1930.
99	5 bonds, Security Building and Loan Assn., numbered A101 to A105 respectively.
100	Page opposite page 599, Bills Receivable Register.
101	Ledger card, W. S. Millener. [109]
105	Page, Bills Receivable and interest paid register.
106	Page, Bills Receivable and interest paid register.

Exhibit

- | No. | Description of Exhibits. |
|-------------------|---|
| 107 | Security Building and Loan Association Check No. 52 on Commercial National Bank of Phoenix. |
| 107a to 107p inc. | Security Building and Loan Association checks Nos. 54, 70, 75, 78, 109, 111, 126, 192, 193, 195, 196, 197, 198, 217, 222, 228 respectively, each drawn on Commercial National Bank of Phoenix. |
| 107q | Security Building and Loan Association Check #5006, drawn on Citizens State Bank, Phoenix. |
| 107r | Security Building and Loan Association Check #5011 drawn ditto |
| 108 | Security Bldg. & Loan Assn. checks #189, 200, 226, 227, 767, 914, 110 and 122, each drawn on Commercial National Bank of Phoenix, and #5, 7 and 12, drawn on First National Bank, Prescott, and #5072, drawn on Citizens State Bank, Phoenix. |
| 109 | Security Bldg. & Loan Assn. check #1173, drawn on Commercial National Bank of Phoenix, and numbers 1281, 1332, 1420, 1562, drawn on The Arizona Bank, Phoenix. |
| 110 | Bunch of deposit tickets, credit tickets and debit tickets of Security Bldg. & Loan Assn. |
| 111 | Security Bldg. & Loan Assn. check #108, drawn on Commercial National Bank of Phoenix. |

Exhibit

No.	Description of Exhibits.		
111a	ditto	#810	ditto
111b	ditto	#870	ditto
111c	ditto	#871	ditto
111d	ditto	#879	ditto
112	ditto	#660	ditto
113	Bunch of credit, deposit and withdrawal tickets, Security Bldg. & Loan Assn.		
114	Note, dated Sept. 21, 1929, favor of Wm. S. Millener, signed Overland Hotel & Investment Co., A. C. Shreve, Vice-President, M. E. Olson, Asst. Secretary.		
115	Note, same as above.		
116	Note, same as above.		
118	Assignment of Mortgage, Wm. S. Millener to Security Bldg. & Loan Assn., dated Sept. 21, 1929, signed Wm. S. Millener. [110]		
119	Circular entitled Pass Book Account, Security Bldg. & Loan Assn.		
120	Circular, Security Bldg. & Loan Assn.		
121	Same as 119.		
122	Circular, Security Bldg. & Loan Assn., entitled "What Twelve Million Americans Know."		
123	Circular, Security Bldg. & Loan Assn., entitled "What Nine Million People Know."		
125	Warranty Deed Arizona Holding Corporation to Jas. M. Shumway.		
126	Mortgage, Jas. M. Shumway to Security Bldg. & Loan Assn.		

Exhibit

- | No. | Description of Exhibits. |
|-----|---|
| 127 | Note, Jas. M. Shumway to Security Bldg. & Loan Assn. |
| 128 | Warranty Deed, Jas. M. Shumway to Arizona Holding Corporation. |
| 129 | Warranty Deed, B. A. Mason to L. P. Valentine. |
| 130 | Realty Mortgage, L. P. Valentine to B. A. Mason. |
| 131 | Assignment, B. A. Mason to A. C. Shreve. |
| 132 | Warranty Deed, L. P. Valentine to Lyda Dryfus. |
| 133 | Warranty Deed, L. P. Valentine to F. D. Arrington. |
| 134 | Realty Mortgage, F. D. Arrington to Theo. Castle. |
| 135 | Realty Mortgage, Lyda Dryfus to Theo. Castle. |
| 138 | Warranty Deed, F. D. Arrington to Arizona Holding Corporation. |
| 139 | Warranty Deed, Lyda Dryfus to Arizona Holding Corporation. |
| 140 | Map |
| 141 | Exemplified copy Warranty Deed Arizona Holding Corporation to A. E. Rayburn. |
| 142 | Exemplified copy Mortgage A. E. Rayburn to Arizona Holding Corporation. |
| 143 | Exemplified copy Assignment of Mortgage Arizona Holding Corporation to Security Building and Loan Assn. |

Exhibit

- | No. | Description of Exhibits. |
|-----|---|
| 144 | Exemplified copy Warranty Deed Dean B. Blackburn to Arizona Holding Corporation. [111] |
| 145 | Exemplified copy Warranty Deed Arizona Holding Corporation to A. E. Rayburn. |
| 146 | Exemplified copy Mortgage A. E. Rayburn to Arizona Holding Corporation. |
| 147 | Exemplified copy Assignment of Mortgage Arizona Holding Corporation to Security Building and Loan Assn. |
| 157 | Pass Book #201, Security Bldg. & Loan Assn. |
| 158 | Envelope addressed to Mr. Fred Sweetland. |
| 159 | Letter dated Jan. 17, 1931, signed: John H. Hobbs. |
| 160 | Statement of Condition of Security Bldg. & Loan Assn. as of Dec. 31, 1930. |
| 161 | Envelope addressed to Rev. O. Hohenstein and duplicate deposit slip. |
| 162 | Envelope addressed to Mr. Wesley Palmer. |
| 163 | Letter dated Jan. 2, 1931, to Mr. Wesley Palmer, signed G. O. Perkins. |
| 164 | Letter dated Apr. 14, 1931, to stockholders, signed: D. H. Shreve. |
| 165 | Letter dated Jan. 2, 1931, to Mr. O. H. Robson and Mrs. Mary Robson, signed: G. O. Perkins. |
| 166 | Envelope addressed to Mr. Henry Baker. |

Exhibit

- | No. | Description of Exhibits. |
|-----|--|
| 167 | Letter to depositors, signed: D. H. Shreve. |
| 168 | Envelope addressed to Mr. Harry Nelson and Mrs. Anna B. Nelson. |
| 169 | Letter to Mr. Harry Nelson and Mrs. Anna B. Nelson, signed: Glen O. Perkins. |
| 170 | Mortgage Wm. H. Perry to Yavapai County Savings Bank. |
| 171 | Application for loan, dated Apr. 16, 1930, signed: Q. H. Perry. |
| 172 | Sheriff's Deed, Geo. C. Ruffner, Sheriff of Yavapai Co. Sav. Bk. |
| 173 | Letter to stockholders, signed: D. H. Shreve. |
| 174 | Death certificate of Alfred Wm. York. |
| 175 | Exemplified copy Realty Mortgage, A. W. York et ux to Security Bldg. & Loan Assn. |
| 176 | Exemplified copy of Warranty Deed A. W. York et ux to Arizona Holding Corporation. [112] |
| 177 | Exemplified copy of Warranty Deed John W. McLaws et ux to A. W. York et ux. |
| 178 | Exemplified copy of Warranty Deed ditto |
| 179 | Letter dated April 14, 1931, to stockholders, signed: D. H. Shreve. |
| 180 | Envelope addressed to Mrs. Lula Gatlin. |
| 181 | Letter dated Jan. 12, 1931, to Mrs. Lula Gatlin, signed D. H. Shreve. |
| 182 | Envelope addressed to Mrs. Lula Gatlin. |

Exhibit

- | No. | Description of Exhibits. |
|-----|--|
| 188 | Draft from Security Building and Loan Assn. to Southwestern Union Securities Corporation drawn on Commercial National Bank, Phoenix. |
| 189 | Draft from Security Building and Loan Assn. to Sunset Bldg. & Loan Assn., drawn on First National Bank, Prescott. |
| 203 | Package of credit debit and deposit slips, Security Bldg. & Loan Assn. |
| 204 | Note dated Oct. 1, 1931 for \$250,427.45, signed D. H. Shreve, G. O. Perkins, list of mortgages and adding machine tape. |
| 205 | Envelope addressed to Mrs. Alice H. Davis. |
| 206 | Letter dated Sept. 22, 1931, to Mrs. Alice H. Davis, signed: G. O. Perkins. |
| 207 | Century Investment Trust circular addressed to Mrs. Manuel K. King. |

And said defendants further move the Court to strike all the testimony of all witnesses in behalf of the Government which was received subsequent to the admission of said books, records and documents in evidence, relating to the contents of the said books, records and documents, and all statements made by such witnesses relating thereto.

Said motion is made upon the ground that no proper foundation was laid for the admission in evidence of the said books, records and documents, and each thereof, hereinbefore referred to, and upon the further ground that the same have not [113]

been properly identified by the witnesses testifying in relation thereto; that all of the books referred to in the aforesaid numbered exhibits have not been shown to be in the same condition as they were when they were first taken from the corporations and persons having the custody of same; it having been shown in evidence that said books, records and documents have been in the hands of several parties, some of whom were called as witnesses by the Government and testified in relation to same but did not identify said books; that it is shown in evidence by the Government's witnesses that said books have been in the hands of persons who have not been called as witnesses on behalf of the Government; that witnesses called by the Government testified, among other things, that the books of the Century Investment Trust and Arizona Holding Corporation are rewritten books; that they do not contain records of original entry, and that recorded in said books are transactions which took place prior to the time of the rewriting of said books by a party who had no knowledge of the facts relating to said transactions, and that the entries made in said books were not made from original entries; that the Government has failed to account for the original books and records of said Century Investment Trust and Arizona Holding Corporation, and original data and evidence from which the said books were written, and has failed to make same available to the defendants; upon the further ground that as to these defendants there was no evidence offered by

the Government showing that the defendants or either of them had knowledge of the entries in said books, or that they directed or caused the entries to be made in said books, or assented thereto; upon the further ground that as to these defendants all of said books, records and documents, and each thereof, referred to herein as Exhibits, are hearsay, incompetent, irrelevant and immaterial; and said motion is based [114] further upon the minutes and records of the Court and all the proceedings heretofore had and taken herein before the Court in the above entitled case.

LESLIE C. HARDY

GEORGE H. SHREVE

Attorneys for said Defendants.

[Endorsed]: Filed Feb. 2, 1938. [115]

[Title of Cause.]

VERDICT.

We, the jury, duly empaneled and sworn in the above-entitled action, upon our oaths, do find the defendant, Jesse H. Shreve,

Guilty in the manner and form as charged in count one of the Indictment;

Guilty in the manner and form as charged in count two of the Indictment;

Guilty in the manner and form as charged in count three of the Indictment;

Guilty in the manner and form as charged in count four of the Indictment;

Guilty in the manner and form as charged in count five of the Indictment;

Guilty in the manner and form as charged in count six of the Indictment;

Guilty in the manner and form as charged in count seven of the Indictment;

Guilty in the manner and form as charged in count eight of the Indictment;

Guilty in the manner and form as charged in count nine of the Indictment;

Guilty in the manner and form as charged in count ten of the Indictment;

Guilty in the manner and form as charged in count eleven of the Indictment.

N. J. CAVALIER

Foreman.

[Endorsed]: Filed Feb. 9, 1938. [116]

[Title of Cause.]

VERDICT.

We, the jury, duly empaneled and sworn in the above entitled action, upon our oaths, do find the defendant, Archie C. Shreve,

Guilty in the manner and form as charged in count one of the Indictment;

Guilty in the manner and form as charged in count two of the Indictment;

Guilty in the manner and form as charged in count three of the Indictment;

Guilty in the manner and form as charged in count four of the Indictment;

Guilty in the manner and form as charged in count five of the Indictment;

Guilty in the manner and form as charged in count six of the Indictment;

Guilty in the manner and form as charged in count seven of the Indictment;

Guilty in the manner and form as charged in count eight of the Indictment;

Guilty in the manner and form as charged in count nine of the Indictment;

Guilty in the manner and form as charged in count ten of the Indictment;

Guilty in the manner and form as charged in count eleven of the Indictment.

N. J. CAVALIER

Foreman.

[Endorsed]: Filed Feb. 9, 1938. [117]

[Title of District Court and Cause.]

MOTION FOR NEW TRIAL.

Come now the defendants, Jesse H. Shreve and Archie C. Shreve, by their undersigned counsel, and move the Court to set aside the verdict heretofore rendered herein and to grant a new trial in this cause, and for grounds for said motion represent and show unto the Court as follows:

1. That the evidence adduced does not tend to prove that said defendants, or either of them, are guilty in manner and form as charged in the indictment.

2. There is not sufficient competent evidence adduced to prove the commission by the said defendants, or either of them, of the alleged offenses set forth in the indictment.

3. The evidence adduced is insufficient to prove the commission by the said defendants, or either of them, of the alleged offenses charged in the indictment.

4. The evidence adduced is insufficient to prove that the said defendants, or either of them, placed or caused to be placed in the United States Post Office within the District of Arizona the letters and printed matter set forth in the indictment.

5. That the matters mailed are wholly insufficient to show or prove that said defendants, or either of them, did, or could, thereby execute the schemes or artifices referred to in the indictment. [118]

6. That the Court improperly refused and denied the defendants' motion for a directed verdict at the close of all of the evidence in the case, for the reason that the evidence offered on the part of the plaintiff was insufficient upon which to base a verdict of guilty upon all or any of the counts of the indictment.

7. That the Court improperly refused and denied defendants' motion for a directed verdict at the close of all of the evidence in the case, for the

reason that the evidence offered on the part of plaintiff was insufficient upon which to base a verdict of guilty upon all or any of the counts of the indictment.

8. That the Court refused to admit proper evidence offered by the defendants by restricting the cross-examination of the plaintiff's witnesses.

9. That the Court erred in charging the jury as to the law of the case.

10. That the verdict is contrary to the law.

11. That the verdict is contrary to the evidence.

12. That the Court erred in admitting evidence, both oral and documentary, offered by the plaintiff, and in rejecting evidence, both oral and documentary, offered by said defendants.

13. That the Court erred in denying defendants' motion to strike evidence made at the close of plaintiff's case and at the close of the whole case.

Wherefore said defendants, and each of them, pray that this motion be granted and that they, and each of them, be granted a new trial herein.

LESLIE C. HARDY

GEORGE H. SHREVE

Attorneys for said
defendants. [119]

Service acknowledged this 11th day of February, 1938.

FRANK E. FLYNN

United States Attorney.

[Endorsed]: Filed Feb. 11, 1938. [120]

In the United States District Court
for the District of Arizona

October 1937 Term

at Phoenix

MINUTE ENTRY OF
MONDAY, FEBRUARY 21, 1938
(Tucson General Minutes)

Honorable Dave W. Ling, United States District
Judge, Presiding.

C-6863

UNITED STATES OF AMERICA,
Plaintiff,

vs.

JESSE H. SHREVE and ARCHIE C. SHREVE,
Defendants.

Defendants' Motion for New Trial comes on regularly for hearing this day. Frank E. Flynn, Esquire, United States Attorney, appears for the Government. The defendants, Jesse H. Shreve and Archie C. Shreve, are present in person with their counsel, Leslie C. Hardy, Esquire.

Said Motion for New Trial is now submitted without argument, and

It is ordered that said motion for new trial be and it is denied and that each of said defendants allowed an exception.

Thereupon, this being the time heretofore fixed for judgment herein and said defendant being

present in person with their counsel, the Court now duly informs each of said defendants of the nature of the crime charged in counts one, two, three, four, five, six, seven, eight, nine, ten and eleven [121] of the Indictment herein, to-wit: violation of Title 18, United States Code, Section 338, committed within the State and District of Arizona; of their arraignment on said charge, and of their pleas of Not Guilty thereto and of their trial and conviction thereof by Jury, and no legal cause appearing why judgment should not now be imposed, the Court renders judgment as follows:

No. C-6863-Tucson

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JESSE H. SHREVE,

Defendant.

Whereas the defendant herein has been found guilty of the crime charged in the indictment, to-wit: violation of Title 18 United States Code, Section 338, as charged in counts one to eleven thereof;

It is ordered, adjudged and decreed that said defendant is guilty of said crime and that in punishment thereof he be committed to the custody of The Attorney General of the United States or his duly authorized representative for imprisonment in such

prison as he shall designate for a term of four (4) years on each of said counts one, two, three, four, five, six, seven, eight, nine, ten and eleven, said terms of imprisonment to run concurrently with each other;

It is further ordered that said defendant be remanded to the custody of the United States Marshal for the District of Arizona for execution of said sentence and by said Marshal delivered into the custody of The Attorney General of the United States or his authorized representative for imprisonment in said prison and that the warden of said prison receive and safely keep and imprison said de- [122] fendant until said judgment and sentence be fully complied with, or until said defendant be discharged therefrom by due process of law, and a certified copy hereof shall be sufficient authority for said Marshal or the Attorney General of the United States to deliver said defendant to the warden of a prison so designated and the said warden of a prison to imprison said defendant in accordance with the terms of this judgment.

Dated at Phoenix, Arizona this 21st day of February, 1938.

DAVE W. LING

Judge.

No. C-6863-Tucson

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ARCHIE C. SHREVE,

Defendant.

Whereas the defendant herein has been found guilty of the crime charged in the indictment, to-wit: violation of Title 18, United States Code, Section 338, as charged in counts one to eleven, thereof;

It is ordered, adjudged and decreed that said defendant is guilty of said crime and that in punishment thereof he be committed to the custody of The Attorney General of the United States or his duly authorized representative for imprisonment in such prison as he shall designate for a term of four (4) years on each of said counts one, two, three, four, five, six, seven, eight, nine, ten and eleven, said terms of imprisonment to run concurrently with each other;

It is further ordered that said defendant be remanded to the custody of the United States Marshal for the District of Arizona for execution of said sentence and by said Marshal delivered into [123] the custody of The Attorney General of the United States or his authorized representative for imprisonment in said prison and that the warden of said prison receive and safely keep and imprison said defendant until said judgment and sentence be fully complied with, or until said defendant be dis-

charged therefrom by due process of law, and a certified copy hereof shall be sufficient authority for said Marshal or the Attorney General of the United States to deliver said defendant to the warden of a prison so designated and the said warden of a prison to imprison said defendant in accordance with the terms of this judgment.

Dated at Phoenix, Arizona, this 21st day of February, 1938.

DAVE W. LING

Judge.

Thereupon, on motion of said counsel for the defendants,

It is ordered that said defendants be allowed until Friday, February 25, 1938, within which to file bail bonds pending appeal and that said defendants be released in the custody of said counsel until said date, and that such bail bonds may be made before a United States Commissioner for the Southern District of California and approved by the United States District Court for said District, and

It is further ordered that the bail bond pending appeal of each of said defendants be fixed in the penal sum of \$5,000.00. [124]

[Title of District Court and Cause.]

NOTICE OF APPEAL.

(In Duplicate)

Name and Address of Appellants:

Jesse H. Shreve, 1202 Third Avenue, San Diego, California,

Archie C. Shreve, 1202 Third Avenue, San Diego, California.

Name and Address of Appellants' Attorneys:

Leslie C. Hardy (Elliott, Hardy & Glenn of counsel) 906 Luhrs Tower, Phoenix, Arizona,

George H. Shreve, 607 Wright-Callender Building, 405 South Hill Street, Los Angeles, California.

Offense:

Violation of Section 215, Criminal Code, Section 338, Title 18, U. S. C. A. (using the mails in furtherance of schemes to defraud).

Date of Judgment:

February 21, 1938.

Brief Description of Judgment or Sentence:

Imprisonment for 4 years upon each 11 counts of the indictment in such prison as the Attorney General may designate, sentence upon each count to run concurrently. [125]

Name of Prison Where Now Confined, if not on Bail:

Appellants admitted to bail in the sum of \$5,000.00 each.

We, the above named appellants, hereby appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the judgment above mentioned on the ground set forth below.

JESSE H. SHREVE

ARCHIE C. SHREVE

Appellants.

Dated at Phoenix, Arizona, this 21st day of February, 1938.

GROUNDS OF APPEAL.

1. The trial Court erred in overruling the general and special demurrers to the indictment filed on behalf of each of the appellants.

2. The bill of particulars filed by counsel for the Government fails to comply with the supplemental motion and demand for bill of particulars filed on behalf of appellants and allowed by the trial court.

3. The trial court erred in overruling appellants' objections to the bill of particulars and their motion to supplement the bill of particulars.

4. The court erred in refusing appellants' motion for directed verdict made at the close of the Government's case, and again made at the close of the whole case, for the reasons stated in said motion which are succinctly stated as [126] follows:

(a) That no offense against the United States of America is charged in the indictment, or in any of the eleven counts thereof.

(b) That the evidence adduced *that* the trial of the case does not prove that appellants, or either of them, are guilty as charged in the indictment, or any of the counts thereof.

(c) That there was not sufficient competent evidence adduced in the trial of the case to prove the commissions by appellants, or either of them, of the alleged offenses set forth in the indictment.

(d) That the evidence adduced at the trial of the case is not sufficient to prove that the appellants placed, or caused to be placed, in the United States Post Office within the District of Arizona the letters and printed matters set forth in the indictment.

(e) That the letters and matters mailed, as alleged in the indictment, are insufficient to prove that appellants, or either of them did, or could, thereby execute the schemes or artifices set forth in the indictment.

(f) That there is a variance between the charges set forth in the indictment and the evidence adduced in proof thereof.

(g) That the Court erred in refusing appellants' motion to strike certain exhibits offered and received in evidence on behalf of the Government, which motion was urged after the close of the case for the Government, and again urged after the close of the whole case. [127]

5. Evidence remote to the issues of the case was erroneously admitted by the trial court, that is to

say, evidence of acts and transactions which occurred subsequent to October 24, 1931, which is the last date of any letter or printed matter set forth in the indictment, and which is the last date of any act alleged to have been committed by appellants, or either of them, as specified in the bill of particulars filed by the Government in response to appellants' supplemental motion and demand for a bill of particulars.

6. The trial court erred in admitting books and records of the Century Investment Trust, one of the corporations named in the indictment, because the evidence disclosed without contradiction that such books and records were rewritten from other books and records not in evidence nor produced at the trial of the case, and it not having been shown that appellants, or either of them, rewrote such books or records, or caused them to be rewritten, or knew they were rewritten.

7. The trial court erred in permitting an accountant in the employ of the Government to testify as a witness on behalf of the Government in regard to summaries based upon corporate books and records not in evidence, and not before the court.

8. The trial court erred in permitting an accountant in the employ of the Government to testify as a witness on behalf of the Government in regard to summaries based upon books and records of corporations not named in the indictment, and which were not in evidence or before the court.

9. The trial court erred in admitting in evidence

books and records of account upon which accountants called as witnesses for the Government based their testimony and summaries, because no proper foundation had been made for the introduction of such books and records of account; because such books and [128] records of account were not properly identified in that no person or persons who made the entries therein were called to testify; because it was not shown that any entries therein were the original transactions there recorded; and because it was not shown that the person or persons who made such entries were not available to testify such entries were correct.

10. The trial court erred in refusing to permit the appellant Archie C. Shreve to testify to conversations and transactions between himself and witnesses for the Government with respect to conversations and transactions testified about by such witnesses for the Government, all of which pertained to affairs of the corporations named in the indictment, and to the offenses alleged in the indictment.

11. The trial court erred in refusing to permit the appellants to offer proof of conversations between themselves and witnesses for the Government with respect to conversations and transactions testified about by such witnesses for the Government, all of which pertained to affairs of the corporations named in the indictment, and to the offenses alleged in the indictment.

12. The trial court erred in applying to this case the rules of evidence and procedure as provided and

prescribed by Sec. 695h, U. S. C. A. (Sec. 9, Act of June 20, 1936) because as so applied the act is ex post facto and thus infringes upon the constitutional rights of appellants, and thereby alters legal rules of evidence by requiring less or different testimony to convict appellants than the law required at the time of the commission of the offenses alleged in the indictment.

13. The trial court erred in admitting in evidence copies of deeds and mortgages, and satisfactions of mortgages, exemplified by public officials of the State of Arizona, all of which were admitted in evidence under provisions of the Revised [129] Code of Arizona, 1928, without further proof, whereas such exemplified copies could only be admitted in evidence under the law as it existed in the Territory of Arizona at the date of its admission into the Union on February 14, 1912, which required that before exemplified copies of such deeds and mortgages, and satisfaction of mortgages, are admissible in evidence, proof should be made that the originals thereof were not in the custody or under the control of the Government.

14. The trial court erred in permitting witnesses for the Government to testify as against these appellants with respect to conversations and transactions between such witnesses and the named defendant, Daniel H. Shreve, since the said Daniel H. Shreve was then deceased thereby rendering such conversations and transactions inadmissible as against these appellants.

15. The trial court erred in admitting evidence which did not fall within the confines of the bill of particulars, but which pertained to the schemes and artifices set forth in the indictment, because proof of such schemes and artifices should necessarily be confined to the bill of particulars.

16. The trial court erred in the admission of testimony by failing to apply the law of this case as prescribed by the United States Circuit Court of Appeals for the Ninth Circuit on the former appeal of this case as reported in the opinion and decision of said court in Vol. 77, Federal Reporter (2nd Series) at page 4.

17. The trial court erred in permitting persons to testify as to values of lands affected by the mortgages referred to in the indictment because such persons were not properly qualified to testify as to such valuations.

18. The trial court erred both in admitting testimony on behalf of the Government, and in rejecting testimony [130] on behalf of the appellants.

19. The trial court erred in its charge to the jury and erred in refusing to charge the jury as requested by appellants.

20. The verdict and judgment are contrary to the law and the evidence of the case.

Service of the foregoing is acknowledged this 21 day of February 1938.

F. E. FLYNN

United States Attorney.

[Endorsed]: Filed Feb. 21, 1938. [131]

[Title of District Court and Cause.]

ORDER FIXING COST BOND

It appearing to the Court that Jesse H. Shreve and Archie C. Shreve, Defendants-Appellants above named, have appealed from the verdict rendered and sentence and judgment pronounced against them in the above entitled cause, now upon application of said Defendants-Appellants, through their counsel,

It Is Hereby Ordered that the Cost Bond on said Appeal is hereby fixed in the sum of \$250.00.

Dated at Phoenix, Arizona, this 21 day of February, 1938.

DAVE W. LING

Judge.

Service of the foregoing is acknowledged this 21 day of February, 1938.

F. E. FLYNN

United States Attorney

[Endorsed]: Filed Feb. 21, 1938. [132]

[Title of District Court and Cause.]

ORDER FIXING TIME FOR GIVING DIRECTIONS FOR PREPARATION OF RECORD ON APPEAL.

It appearing to the Court that the Defendants, Jesse H. Shreve and Archie C. Shreve, have served and filed a Notice of Appeal herein from judgment of conviction and sentence pronounced thereon pur-

suant to Rule III of the Rules of Practice and Procedure in Criminal Cases as promulgated by the Supreme Court of the United States,

It Is Therefore Ordered that the attorneys for the said Defendants-Appellants, and the United States Attorney, appear before me in Chambers on the 23rd day of February, 1938, at the hour of 10 o'clock A. M., of said day for such directions as may be appropriate with respect to the preparation of the record on appeal, including directions for the purpose of making promptly available all necessary transcripts of testimony and proceedings, pursuant to Rule VII of said Rules of Practice and Procedure of the Supreme Court of the United States.

Dated at Phoenix, Arizona, this 21 day of February, 1938.

DAVE W. LING

Judge. [133]

Service of the foregoing is acknowledged this 21 day of February, 1938.

F. E. FLYNN

United States Attorney.

[Endorsed]: Filed Feb. 21, 1938. [134]

[Title of District Court and Cause.]

DIRECTION FOR PREPARATION OF
RECORD ON APPEAL

In accordance with Rule VII of the Rules of the Supreme Court of the United States governing practice and procedure in criminal cases,

It Is Ordered that the Defendants-Appellants, Jesse H. Shreve and Archie C. Shreve, on or before the 15th day of March, 1938, prepare and file a Praecipe for the portions of the record required to be forwarded to the United States Circuit Court of Appeals for the Ninth Circuit, and that a copy thereof be served upon the Plaintiff-Appellee, prior to the filing thereof with the Clerk of this Court, and

It Further Appearing that Government's Exhibits numbered 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 77 and 78, are lengthy, bulky and cumbersome, and that it is also deemed necessary that said Exhibits be transmitted to the United States Circuit Court of Appeals of the Ninth Circuit for the inspection of the Judges of said Court,

Now, Therefore, in accordance with Subdivision 4, Rule 14, of the Rules of the United States Circuit Court of Appeals for the Ninth Circuit,

It Is Ordered that Government's Exhibits numbered 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 77 and 78 be transmitted by the Clerk of this Court, in a safe [135] manner and at the expense of said Defendants-Appellants, to the Clerk of the

United States Circuit Court of Appeals of the Ninth Circuit, at San Francisco, California, and

It Is Further Ordered that description of said Exhibits or the pertinent portions thereof be included in the Bill of Exceptions, with such abstract thereof as will be necessary to readily identify said Exhibits.

Dated at Phoenix, Arizona, this 23 day of February, 1938.

DAVE W. LING

Judge

Service of foregoing Direction For Preparation of Record on Appeal admitted this 23 day of February, 1938.

F. E. FLYNN

United States Attorney.

[Endorsed]: Filed Feb. 23, 1938. [136]

[Title of District Court and Cause.]

ORDER FIXING AND EXTENDING TIME OF DEFENDANTS-APPELLANTS JESSE H. SHREVE AND ARCHIE C. SHREVE, WITHIN WHICH TO PREPARE, FILE AND PROCURE TO BE SETTLED THE BILL OF EXCEPTIONS AND TO FILE ASSIGNMENT OF ERRORS.

Upon motion of Jesse H. Shreve and Archie C. Shreve, Defendants-Appellants of the above entitled

cause, through their attorneys, for an Order extending and fixing the time within which to prepare, file and procure to be settled the Bill of Exceptions herein, and the time within which to file the Assignment of Errors, pursuant to Rule IX of the Rules of Practice and Procedure in Criminal Cases promulgated by the Supreme Court of the United States, and

It Appearing that said Defendants-Appellants, in accordance with Rule III of said Rules of Practice and Procedure, have duly filed and taken their appeal on the 21st day of February, 1938, to the United States Circuit Court of Appeals for the Ninth Circuit, and

It Further Appearing to the Court that by reason of the voluminous testimony given in this case, and the numerous exhibits received in evidence, good cause exists for allowing said Defendants-Appellants additional time than is allowed by Rule IX of said Rules of Practice and Procedure within which to prepare, file and procure to be settled the Bill of Exceptions on such appeal, and within which to file the Assignment of Errors of which said Defendants-Appellants complain, [137]

It Is Ordered that the time within which the said Defendants-Appellants shall procure to be settled and filed with the Clerk of this Court the Bill of Exceptions, and for filing their Assignment of Errors, is hereby extended to and including the 31st day of May, 1938, and

It Is Further Ordered that the October, 1937, term of this Court is hereby extended to, and including, the date for procuring said Bill of Exceptions to be settled and filed and said Assignment of Errors to be filed, as aforesaid.

Dated at Phoenix, Arizona, this 23 day of February, 1938.

DAVE W. LING

Judge.

Service of the foregoing is acknowledged this 23 day of February, 1938.

F. E. FLYNN

United States Attorney.

[Endorsed]: Filed Feb. 23, 1938. [138]

[Title of District Court and Cause.]

COST BOND OF APPEAL

Know All Men by These Presents:

That We, Jesse H. Shreve and Archie C. Shreve, as principals, and Catherine E. Newton and Wm. P. Fletcher and Eugenia Fletcher and Joseph E. Shreve, as sureties, are firmly held and bound unto the United States of America, Plaintiff-Appellee in the above entitled action, in the full and just sum of Two Hundred Fifty and 00/100 Dollars, to be paid to said United States of America, for the payment of which sum well and truly to be made, we bind our heirs, executors, administrators and assigns, jointly and severally, by these presents.

Signed and sealed this 22nd day of February, 1938.

Whereas, lately at the October, 1937, term of the District Court of the United States in and for the District of Arizona, a verdict was rendered and judgment pronounced against said Jesse H. Shreve and Archie C. Shreve, in the above entitled cause, and the said Jesse H. Shreve and Archie C. Shreve having filed Notice of Appeal from said verdict and judgment to the United States Circuit Court of Appeals for the Ninth Circuit.

Now, Therefore, the condition of the above obligation is such that if the said Jesse H. Shreve and Archie C. Shreve, shall prosecute such appeal to affect, and shall answer [139] if they shall fail to make good their appeal, then the above obligation to be void, otherwise to remain in full force and effect.

[Seal] JESSE H. SHREVE

Principal

[Seal] ARCHIE C. SHREVE

Principal

[Seal] WM. P. FLETCHER

Surety

[Seal] EUGENIA FLETCHER

Surety

[Seal] CATHERINE E. NEWTON

Surety

JOSEPH E. SHREVE.

State of California,
County of San Diego—ss:

Wm. P. Fletcher, the person whose name is subscribed as one of the sureties to the above undertaking, being duly sworn, states that as one of the sureties named in the above undertaking he is a resident and householder within the County of San Diego, State of California, and that he is worth the amount specified in the said undertaking as the penalty thereof, over and above all just debts and liabilities, exclusive of property exempt from execution.

WM. P. FLETCHER.

Subscribed and sworn to before me this 22 day of February, 1938.

[Seal]

GEORGE R. BAIRD

United States Commissioner. [140]

State of California,
County of San Diego—ss:

Eugenia Fletcher, the person whose name is subscribed as one of the sureties to the above undertaking, being duly sworn, states that as one of the sureties named in the above undertaking he is a resident and householder within the County of San Diego, State of California, and that he is worth the amount specified in the said undertaking as the penalty thereof, over and above all just debts and

liabilities, exclusive of property exempt from execution.

EUGENIA FLETCHER

Subscribed and sworn to before me this 22 day of February, 1938.

[Seal]

GEORGE R. BAIRD

United States Commissioner.

State of California

County of San Diego—ss:

Catherine E. Newton, the person whose name is subscribed as one of the sureties to the above undertaking, being duly sworn, states that as one of the sureties named in the above undertaking she is a resident and householder within the County of San Diego, State of California, and that she is worth the amount specified in the said undertaking as the penalty thereof, over and above all just debts and liabilities, exclusive of property exempt from execution.

CATHERINE E. NEWTON

Subscribed and sworn to before me this 22 day of February, 1938.

[Seal]

GEORGE R. BAIRD

United States Commissioner [141]

State of California,
County of San Diego—ss:

Joseph E. Shreve, the person whose name is subscribed as one of the sureties to the above undertaking, being duly sworn, states that as one of the sureties named in the above undertaking he is a resident and householder within the County of San Diego, State of California, and that he is worth the amount specified in the said undertaking as the penalty thereof, over and above all just debts and liabilities, exclusive of property exempt from execution.

JOSEPH E. SHREVE

Subscribed and sworn to before me this 22 day of February, 1938.

[Seal]

GEORGE R. BAIRD

United States Commissioner. [142]

The within sureties have been examined by me and questioned as to their ownership of the assets listed in their respective schedules, and I hereby approve the said Bond in the amount thereof.

[Seal]

GEORGE R. BAIRD

United States Commissioner.

I would accept this Bond both as to form and sufficiency of sureties if it were required of me as a judicial act in my District.

RALPH A. JENNEY

United States District Judge,
Southern District of California

The foregoing Bond is approved:

DAVE W. LING

United States District Judge
for the District of Arizona.

[143]

SCHEDULE OF SURETY

Schedule of Assets of Surety

Catherine E. Newton

Schedule "A"

Lot 10 Block "E" Catalina Manor, San Diego,
California

Valuation	\$ 5,500.00
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Lot 50 and 51 La Jolla Crest

Valuation	\$15,000.00
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Encumbrance	6,500.00
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\$ 8,500.00

Lot 10, Block "A" Riviera Villas

Lots 1 & 3 Blk "M" Riviera Villas

Lot 24-25-26-28 Block "O" Riviera Villas

Valuation	\$26,500.00
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Schedule of Assets of Surety

Joseph E. Shreve

Schedule "C"

Lots 13-14-15 Block 30 Sherman's Addition

Valuation	\$ 7,500.00
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Encumbrance	1,500.00
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\$ 6,000.00

Lots 10 & 11 Block 23 Fairmount Addition	
Valuation	\$ 2,000.00
Encumbrance	350.00
	<hr/>
	\$ 1,650.00
Lots 47 & 48 Block 334 Choate's Addition	
Valuation	\$10,000.00
Lots 29 & 30 Block 13 Bird Rock Addition	
Valuation	\$ 2,000.00
Lots 3 & 4 Block 1 Rose Canyon Park	
Valuation	\$ 4,000.00

Schedule of Assets of Surety

William P. Fletcher

Schedule "B"

Lots G, H, I, J, K, L, M, N, O & P in Sweetwater Acres	
Por. 1/4 Sec. 125 Rancho de la Nacion	
Valuation	\$35,000.00
Lot 9 Block 3 Gaston's & Chapman's Addition	
Valuation	\$ 2,600.00
Sec. 8, Twp 11 Range 4 San Luis Rey	
Valuation	\$20,000.00
Encumbrance	5,000.00
	<hr/>
	\$15,000.00
Lot 22 Block "A" Cornish Heights	
Lots 19 & 22 Block 25 Sunset Cliffs	
Valuation	\$ 9,000.00

Schedule of Assets of Surety
 Joseph E. Shreve
 Schedule "C"

Por. Sec. 30 twp 18 Range 2 W

Valuation \$ 7,500.00

Encumbrance 1,500.00

\$ 6,000.00

Lots 5-6-17-20 Sec. 27 Twp 17 Range 5 E

Valuation \$ 5,400.00

[144]

Service of the foregoing is acknowledged this.....
 day of February, 1938.

.....
 United States Attorney

[Endorsed]: Filed Feb. 24, 1938. [145]

[Title of District Court and Cause.]

BAIL BOND OF JESSE H. SHREVE ON
 APPEAL

Know All Men by These Presents:

That we, Jesse H. Shreve, as Principal, and Catherine E. Newton, Joseph E. Shreve and Wm. P. Fletcher and Eugenia Fletcher as sureties, are held and firmly bound unto the United States of America, in the full, just and penal sum of Five Thousand and 00/100 Dollars, to be paid to the

United States of America, to which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators jointly and severally.

Whereas, at the October, 1937, term of the District Court of the United States, for the District of Arizona, at Phoenix, in Cause No. C-6863, pending in said Court between the United States of America, as Plaintiff, and said Jesse H. Shreve, as one of the Defendants above named, a judgment and sentence was rendered and pronounced against the said Defendant Jesse H. Shreve, on February 21, 1938, and

Whereas, the said Defendant Jesse H. Shreve has appealed to the United States Circuit Court of Appeals for the Ninth Circuit, to reverse the judgment and sentence as aforesaid,

Now, Therefore, the condition of the above obligation is such that the said Defendant, Jesse H. Shreve, shall appear in person or by attorney in the United States Circuit Court of [146] Appeals for the Ninth Circuit on such day or days as may be appointed for the hearing of such cause in said Court, and upon such day or days as may be appointed by said Court until finally discharged therefrom, and shall abide by and obey all orders or commands made by said United States Circuit Court of Appeals for the Ninth Circuit in said cause, and that he, the said Jesse H. Shreve, shall surrender himself in execution of the judgment and sentence appealed from as said Court may direct, if the judgment and sentence of said District Court of the

United States for the District of Arizona against him shall be affirmed by the United States Circuit Court of Appeals for the Ninth Circuit; and if said Defendant shall appear for trial in the District Court of the United States for the District of Arizona on such day and days as may be appointed for a retrial of said cause in said District Court of the United States for the District of Arizona and shall abide by and obey all the rules, orders, and judgments made by the United States Circuit Court of Appeals for the Ninth Circuit, and the District Court of the United States for the District of Arizona, or either of them, in case said judgment and sentence against him shall be reversed by said United States Circuit Court of Appeals for the Ninth Circuit, then the above obligation shall be void, otherwise to remain in full force and effect.

Witness our hands and seals this 22 day of February, 1938.

[Seal]

JESSE H. SHREVE

Principal

[Seal]

WM. P. FLETCHER

Surety

[Seal]

EUGENIA FLETCHER

Surety

[Seal]

CATHERINE E. NEWTON

Surety

[Seal]

JOSEPH E. SHREVE

Surety [147]

State of California,
County of San Diego—ss:

Wm. P. Fletcher, the person whose name is subscribed as one of the sureties to the above undertaking, being first duly sworn, states that as one of the sureties named in the above undertaking, he is a resident and householder within the County of San Diego, State of California, and that he is worth the amount specified in the said undertaking as the penalty thereof, over and above all just debts and liabilities, exclusive of property exempt from execution.

WM. P. FLETCHER

Subscribed and sworn to before me this 22 day of February, 1938.

[Seal]

GEORGE R. BAIRD

United States Commissioner [148]

State of California
County of San Diego—ss:

Eugenia Fletcher, the person whose name is subscribed as one of the sureties to the above undertaking, being duly sworn, states that as one of the sureties named in the above undertaking, he is a resident and householder within the County of San Diego, California, and that he is worth the amount specified in the said undertaking as the penalty thereof, over and above all just debts and liabilities, exclusive of property exempt from execution.

EUGENIA FLETCHER

Subscribed and sworn to before me this 22 day of February, 1938.

[Seal]

GEORGE R. BAIRD

United States Commissioner.

State of California

County of San Diego—ss:

Catherine E. Newton, the person whose name is subscribed as one of the sureties to the above undertaking, being duly sworn, states that as one of the sureties named in the above undertaking, he is a resident and householder within the County of San Diego, State of California, and that he is worth the amount specified in the said undertaking as the penalty thereof, over and above all just debts and liabilities, exclusive of property exempt from execution.

CATHERINE E. NEWTON

Subscribed and sworn to before me this 22nd day of February, 1938.

[Seal]

GEORGE R. BAIRD

United States Commissioner. [149]

State of California

County of San Diego—ss:

Joseph E. Shreve, the person whose name is subscribed as one of the sureties to the above undertaking, being duly sworn, states that as one of the sureties named in the above undertaking, he is a resident and householder within the County of San Diego, California, and that he is worth the amount

specified in the said undertaking as the penalty thereof, over and above all just debts and liabilities, exclusive of property exempt from execution.

JOSEPH E. SHREVE

Subscribed and sworn to before me this 22 day of February, 1938.

[Seal]

GEORGE R. BAIRD

United States Commissioner. [150]

The within sureties have been examined by me and questioned as to their ownership of the assets listed in their respective schedules, and I hereby approve the said Bond in the amount thereof.

[Seal]

GEORGE R. BAIRD

United States Commissioner.

I would accept this Bond both as to form and sufficiency of sureties if it were required of me as a judicial act in my District.

RALPH A. JENNEY

United States District Judge,
Southern District of California

The foregoing Bond is approved:

DAVE W. LING

United States District Judge
for the District of Arizona.

[151]

SCHEDULE OF SURETY

Schedule of Assets of Surety

Catherine E. Newton

Schedule "A"

Lot 10 Block "E" Catalina Manor, San Diego,
California

Valuation	\$ 5,500.00
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Lot 50 and 51 La Jolla Crest

Valuation	\$15,000.00
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Encumbrance	6,500.00
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\$ 8,500.00

Lot 10, Block "A" Riviera Villas

Lots 1 & 3 Blk "M" Riviera Villas

Lot 24-25-26-28 Block "O" Riviera Villas

Valuation	\$26,500.00
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Schedule of Assets of Surety

Joseph E. Shreve

Schedule "C"

Lots 13-14-15 Block 30 Sherman's Addition

Valuation	\$ 7,500.00
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Encumbrance	1,500.00
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\$ 6,000.00

Lots 10 & 11 Block 23 Fairmount Addition

Valuation	\$ 2,000.00
-----------	-------------

Encumbrance	350.00
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\$ 1,650.00

Lots 47 & 48 Block 334 Choate's Addition	Valuation	\$10,000.00
Lots 29 & 30 Block 13 Bird Rock Addition	Valuation	\$ 2,000.00
Lots 3 & 4 Block 1 Rose Canyon Park	Valuation	\$ 4,000.00

Schedule of Assets of Surety
William P. Fletcher

Schedule "B"

Lots G, H, I, J, K, L, M, N, O & P in Sweetwater Acres	Por. 1/4 Sec. 125 Rancho de la Nacion	Valuation	\$35,000.00
Lot 9 Block 3 Gaston's & Chapman's Addition	Valuation	\$ 2,600.00	
Sec. 8 Twp 11 Range 4 San Luis Rey	Valuation	\$20,000.00	
	Encumbrance	5,000.00	
		<hr/>	\$15,000.00
Lot 22 Block "A" Cornish Heights			
Lots 19 & 22 Block 25 Sunset Cliffs	Valuation	\$ 9,000.00	

Schedule of Assets of Surety
Joseph E. Shreve

Schedule "C"

Por. Sec. 30 twp 18 Range 2 W	Valuation	\$ 7,500.00
	Encumbrance	1,500.00
		<hr/>
		\$ 6,000.00
Lots 5-6-16-17-20 Sec. 27 Twp 17 Range 5 E	Valuation	\$ 5,400.00

Service of the foregoing is acknowledged this.....
day of February, 1938.

.....
United States Attorney

[Endorsed]: Filed Feb. 24, 1938. [153]

[Title of District Court and Cause.]

BAIL BOND *OR* ARCHIE C. SHREVE ON
APPEAL

Know All Men by These Presents:

That we, Archie C. Shreve, as Principal, and Wm. P. Fletcher, Eugenia Fletcher and Catherine E. Newton and Joseph E. Shreve as sureties, are held and firmly bound unto the United States of America, in the full, just and penal sum of Five Thousand and 00/100 Dollars, to be paid to the United States of America, to which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators jointly and severally.

Whereas, at the October, 1937, term of the District Court of the United States, for the District of Arizona, at Phoenix, in Cause No. C-6863, pending in said Court between the United States of America, as Plaintiff, and said Archie C. Shreve, as one of the Defendants above named, a judgment and sentence was rendered and pronounced against the said Defendant Archie C. Shreve, on February 21, 1938, and

Whereas, the said Defendant Archie C. Shreve has appealed to the United States Circuit Court of Appeals for the Ninth Circuit, to reverse the judgment and sentence as aforesaid,

Now, Therefore, the condition of the above obligation is such that the said Defendant, Archie C. Shreve, shall appear in person or by attorney in the United States Circuit Court of [154] Appeals for the Ninth Circuit on such day or days as may be appointed for the hearing of such cause in said Court, and upon such day or days as may be appointed by said Court until finally discharged therefrom, and shall abide by and obey all orders or commands made by said United States Circuit Court of Appeals for the Ninth Circuit in said cause, and that he, the said Archie C. Shreve, shall surrender himself in execution of the judgment and sentence appealed from as said Court may direct, if the judgment and sentence of said District Court of the United States for the District of Arizona against him shall be affirmed by the United States Circuit Court of Appeals for the Ninth Circuit; and if said Defendant shall appear for trial in the District Court of the United States for the District of Arizona on such day and days as may be appointed for a retrial of said cause in said District Court of the United States for the District of Arizona and shall abide by and obey all the rules, orders, and judgments made by the United States Circuit Court of Appeals for the Ninth Circuit, and the District Court of the United States for the District of Ari-

zona, or either of them, in case said judgment and sentence against him shall be reversed by said United States Circuit Court of Appeals for the Ninth Circuit, then the above obligation shall be void, otherwise to remain in full force and effect.

Witness our hands and seals this 22nd day of February, 1938.

[Seal] ARCHIE C. SHREVE
Principal

[Seal] WM. P. FLETCHER
Surety

[Seal] EUGENIA FLETCHER
Surety

[Seal] CATHERINE E. NEWTON
Surety

[Seal] JOSEPH E. SHREVE
Surety [155]

State of California

County of San Diego—ss:

Eugenia Fletcher, the person whose name is subscribed as one of the sureties to the above undertaking, being duly sworn, states that as one of the sureties named in the above undertaking, she is a resident and householder within the County of San Diego, State of California, and that she is worth the amount specified in the said undertaking as the penalty thereof, over and above all just debts and liabilities, exclusive of property exempt from execution.

EUGENIA FLETCHER

Subscribed and sworn to before me this 22nd day of February, 1938.

[Seal]

GEORGE R. BAIRD

United States Commissioner.

State of California

County of San Diego—ss:

Wm. P. Fletcher, the person whose name is subscribed as one of the sureties to the above undertaking, being duly sworn, states that as one of the sureties named in the above undertaking, he is a resident and householder within the County of San Diego, State of California, and that he is worth the amount specified in the said undertaking as the penalty thereof, over and above all just debts and liabilities, exclusive of property exempt from execution.

WM. P. FLETCHER

Subscribed and sworn to before me this 22nd day of February, 1938.

[Seal]

GEORGE R. BAIRD

United States Commissioner. [156]

State of California

County of San Diego—ss:

Joseph E. Shreve, the person whose name is subscribed as one of the sureties to the above undertaking, being duly sworn, states that as one of the sureties named in the above undertaking, he is a resident and householder within the County of San Diego, State of California, and that he is worth the

amount specified in the said undertaking as the penalty thereof, over and above all just debts and liabilities, exclusive of property exempt from execution.

JOSEPH E. SHREVE

Subscribed and sworn to before me this 22nd day of February, 1938.

[Seal]

GEORGE R. BAIRD

United States Commissioner

State of California

County of San Diego—ss:

Catherine E. Newton, the person whose name is subscribed as one of the sureties to the above undertaking, being duly sworn, states that as one of the sureties named in the above undertaking, she is a resident and householder within the County of San Diego, State of California, and that she is worth the amount specified in the said undertaking as the penalty thereof, over and above all just debts and liabilities, exclusive of property exempt from execution.

CATHERINE E. NEWTON

Subscribed and sworn to before me this 22 day of February, 1938.

[Seal]

GEORGE R. BAIRD

United States Commissioner [157]

The within sureties have been examined by me and questioned as to their ownership of the assets

listed in their respective schedules, and I hereby approve the said Bond in the amount thereof.

[Seal]

GEORGE R. BAIRD

United States Commissioner.

I would accept this Bond both as to form and sufficiency of sureties if it were required of me as a judicial act in my District.

RALPH A. JENNEY

United States District Judge,
Southern District of California

The foregoing Bond is approved:

DAVE W. LING

United States District Judge
for the District of Arizona.

[158]

SCHEDULE OF SURETY

Schedule of Assets of Surety

Catherine E. Newton

Schedule "A"

Lot 10 Block "E" Catalina Manor, San Diego,
California

Valuation \$ 5,500.00

Lots 50 and 51 La Jolla Crest

Valuation \$15,000.00

Encumbrance 6,500.00

Lot 10, Block "A" Riviera Villas

Lots 1 & 3 Blk "M" Riviera Villas

Lots 24-25-26-28 Block "O" Riviera Villas

Valuation \$26,500.00

Schedule of Assets of Surety

Joseph E. Shreve

Schedule "C"

Lots 13-14-15 Block 30 Sherman's Addition

Valuation \$ 7,500.00

Encumbrance 1,500.00

\$ 6,000.00

Lots 10 & 11 Block 23 Fairmount Addition

Valuation \$ 2,000.00

Encumbrance 350.00

\$ 1,650.00

Lots 47 & 48 Block 334 Choate's Addition

Valuation \$10,000.00

Lots 29 & 30 Block 13 Bird Rock Addition

Valuation \$ 2,000.00

Lots 3 & 4 Block 1 Rose Canyon Park

Valuation \$ 4,000.00

Schedule of Assets of Surety

William P. Fletcher

Schedule "B"

Lots G, H, I, J, K, L, M, N, O & P in Sweetwater
Acres

Por. 1/4 Sec. 125 Rancho de la Nacion

Valuation \$35,000.00

Lot 9 Block 3 Gaston's & Chapman's Addition

Valuation \$ 2,600.00

Sec. 8, Twp 11 Range 4 San Luis Rey		
	Valuation	\$20,000.00
	Encumbrance	5,000.00
		<hr/>
		\$15,000.00

Lot 22 Block "A" Cornish Heights		
Lots 19 & 22 Block 25 Sunset Cliffs		
	Valuation	\$ 9,000.00

Schedule of Assets of Surety
Joseph E. Shreve
Schedule "C"

Por. Sec. 30 twp 18 Range 2 W		
	Valuation	\$ 7,500.00
	Encumbrance	1,500.00
		<hr/>
		\$ 6,000.00
Lots 5-6-16-17-20 Sec. 27 Twp 17 Range 5 E		
	Valuation	\$ 5,400.00
		[159]

[Endorsed]: Filed Feb. 24, 1938. [160]

[Title of District Court and Cause.]

BILL OF EXCEPTIONS OF THE DEFENDANTS
JESSE H. SHREVE AND ARCHIE
C. SHREVE.

Be It Remembered: That on the 23rd day of December, 1933, the Grand Jury of the United States for the District of Arizona returned to this Court its indictment against all the defendants above

named charging them with a violation of Section 215 of the Criminal Code (Sec. 338, Title 18, U. S. C. A.) and Section 37 of the Criminal Code (Sec. 88, Title 18, U. S. C. A.) and thereafter each of said defendants was arraigned upon said indictment and entered their respective pleas of not guilty to each and all the charges in said indictment contained.

That on February 13, 1934, the cause came on for trial before the Honorable Albert M. Sames and a jury in the United States District Court for the District of Arizona at Tucson, and on March 30, 1934, the defendants Jesse H. Shreve, Archie C. Shreve and Daniel H. Shreve were convicted upon the first eleven counts of the indictment and the jury disagreed upon the twelfth count; the defendant Glen O. Perkins was convicted upon the first four counts of the indictment; and the defendant W. C. Evans was convicted upon counts one and four of the indictment. Upon appeal to the United States Circuit [161] Court of Appeals for the Ninth Circuit, said judgments of convictions were reversed on April 29, 1935, and a new trial ordered.

That pursuant to the order and mandate of the United States Circuit Court of Appeals for the Ninth Circuit, reversing said cause and ordering a new trial, as aforesaid, the cause again came on duly and regularly for trial against the defendants Jesse H. Shreve and Archie C. Shreve only on January 11, 1938, before the Honorable Dave W. Ling and a jury at Phoenix, the Honorable Albert M. Sames having accepted a disqualification to preside over

said trial of the cause. The Government was represented by Frank E. Flynn, Esq., United States Attorney, and K. Berry Peterson, Esq., Assistant United States Attorney, and the defendants Jesse H. Shreve and Archie C. Shreve were represented by Leslie C. Hardy, Esq., and George H. Shreve, Esq.

That after the judgment of conviction against him in the former trial, and before this trial of the cause, the indictment was dismissed as against the defendant W. C. Evans. The defendant Glen O. Perkins, after the judgment of conviction against him in the former trial, and before this trial of the cause, filed a motion for a severance of the indictment as to him, and the court granted the motion for severance. After the judgment of conviction against him in the former trial, and before this trial of the cause, the defendant Daniel H. Shreve died, and, upon motion of his counsel, the indictment was abated as to him.

The General and Special Demurrers of the defendants Jesse H. Shreve and Archie C. Shreve, filed January 29, 1934, were again submitted to the court and after consideration thereof by the court were overruled on January 11, 1938, and said defendants excepted.

The defendants Jesse H. Shreve and Archie C. Shreve [162] jointly filed objections to and a motion to supplement the Bill of Particulars filed on behalf of the Government, which objection was overruled and which motion was denied by the court, and said defendants excepted.

Whereupon, the Government and the defendants Jesse H. Shreve and Archie C. Shreve, through their respective counsel, having announced ready for trial, a jury was empanelled and sworn, and the following proceedings were had:

The United States Attorney moved the dismissal of the twelfth count of the indictment (the conspiracy count) which motion was granted by the court, and thereupon the trial proceeded upon the remaining eleven counts of the indictment.

Whereupon, United States of America, plaintiff, to sustain the issue on its part, called

BEN MATHEWS,

who testified as follows:

My name is Ben Mathews. I reside three miles east of Tucson, Arizona, and have lived in Tucson seventeen years where I have practiced law for seventeen years.

I believe in May, 1928, I had something to do with the formation of the Arizona Holding Company, as one of the incorporators. I prepared and filed Articles of Incorporation and application for a permit to sell securities and stock. I obtained the corporate papers and secured the certificate. Four gentlemen first came to me to discuss the formation of the Arizona Holding Company, by the name of Portman, Glen Perkins, Love and Hunter. We had a discussion at a meeting at the Santa Rita Hotel one day at noon, at which the matter was gone into, and the purpose of the Arizona Holding Company

(Testimony of Ben Mathews.)

was to hold stock in the building and loan association later to be organized; stock was to be sold in the Arizona Holding Company to provide funds necessary to be deposited with the State of Arizona in connection with the building and loan association. [163] At a meeting in the Santa Rita Hotel, Mr. Portman, principally, I believe, said he had ways of raising funds outside of Tucson, and when asked where said San Diego. I was connected with the Arizona Holding Company about a month, maybe six weeks, as its attorney. Mr. E. T. Cusick, of Tucson, succeeded me as their attorney. The officers of the Arizona Holding Company at the time, as I recall it, were L. C. James, President, and Dr. Charles A. Thomas, Dr. Bascomb F. Morris and E. L. Anderson, all of Tucson, were Directors.

Cross Examination

My partner, Ralph Bilby, and our stenographer, Mrs. Sicard, were incorporators of this company with me. We were the three incorporators and as such obtained a certificate of incorporation for the Arizona Holding Company. Mr. Bilby and Mrs. Sicard remained as incorporators of that company just a few days, until the first meeting. We resigned as incorporators and turned it over to the officers and directors who had been elected at the first meeting, who were, as I recall, L. C. James, Dr. Charles A. Thomas, Bascomb F. Morris, E. L. Anderson, and I don't recall whether Mr. Portman, Mr. Love, Mr. Hunter and Mr. Perkins were directors or not, but

(Testimony of Ben Mathews.)

they were the ones that had charge of it on their own. As I recall it, Mr. James was then made President of the Arizona Holding Company at the first meeting of the board of directors. Mr. James was then a resident of Tucson and was in business in Tucson at that time. Dr. Charles A. Thomas was then a resident of Tucson and a practicing physician and surgeon. Dr. Bascomb Morris was a resident of Tucson and a practicing physician and surgeon. Mr. E. L. Anderson was also a resident of Tucson.

I did not discuss the organization of the Arizona Holding Company with defendants Archie Shreve or Jesse Shreve and they never consulted me with regard to the organization of that company. I only consulted the people whom I have testified about on [164] direct examination and cross examination concerning the organization of this company. In the preliminary discussion before the organization of this company, which was had at the Santa Rita Hotel, there were present Mr. Love, Mr. Portman, Mr. Hunter, Mr. Perkins, Mr. James, Dr. Thomas and Dr. Morris and myself. I don't believe E. L. Anderson was there that day. He might have been. Archie Shreve and Jesse Shreve were not there at that time. The people whom I have named who actively participated in the organization of this company were the ones that hired and paid me. At that time the principal discussion was about the organization of the building and loan association

(Testimony of Ben Mathews.)

which was to follow the Arizona Holding Corporation. These gentlemen whom I have named desired to organize the Arizona Holding Company in order to finance the building and loan association, and that, generally, was the purpose for the organization of the Arizona Holding Company. During the times about which I have testified I did not know Archie Shreve or Jesse Shreve.

Redirect Examination

Mr. Love and Mr. Portman were from San Diego, as I understood it. As I recall, the first time I met the Shreves was after the Security Building and Loan Association opened an office in Tucson, I should judge a year after the incorporation. I didn't know the Shreves then; I met them in Tucson.

Recross Examination

With regard to Mr. Portman being from San Diego, I knew just what they told me. I did not know any of them except Mr. Perkins. I knew he lived there because I got letters from him, but the other gentlemen said they were from California and San Diego.

F. O. KNIPE,

called as a witness on behalf of the Government, testified: [165]

I have resided at Tucson since 1911. I first knew Glen Perkins about 1928. I was approached by a salesman in connection with the purchase of stock

(Testimony of F. O. Knipe.)

in the Arizona Holding Corporation, who later introduced me to Mr. Perkins. I had a discussion with Mr. Perkins as to the purchase of stock in the Arizona Holding Corporation, and purchased \$5,000.00 of that stock for \$4,500.00 from Mr. Perkins. That stock was transferred to the Century Investment Trust in the early part of 1929, through an arrangement to trade the Arizona Holding stock for the Century Trust stock, through a fellow whose name I don't know, who said he came from San Diego. I received certain stock from the Century Investment Trust for my stock in the Arizona Holding Corporation. Government's Exhibits 1, 2 and 3, for identification, is the stock I received in the Century Investment Trust.

Mr. Peterson: We offer these in evidence your Honor.

Mr. Hardy: We object to the introduction of these certificates. At this time there is no proof of the organization of the Century Investment Company nor is there any proof of the connection it had in this indictment at this time.

Mr. Peterson: It is one of the companies charged in the indictment.

Mr. Hardy: I should assume there should be some proof that would connect it up.

The Court: Well, could you connect it up?

Mr. Peterson: We will later connect it up and introduce it.

The Court: All right.

(Testimony of F. O. Knipe.)

Mr. Hardy: Exception.

The documents were received in evidence as Government's Exhibits 1, 2 and 3. [166]

GOVERNMENT'S EXHIBIT 1,

which, abstracted to the issue, is in full substance as follows: Stock Certificate No. 79, for 250 shares of Common Stock of Century Investment Trust, issued to Frederick O. Knipe, dated December 20, 1929, signed by A. C. Shreve, Vice-President, and John C. Hobbs, Assistant Secretary.

GOVERNMENT'S EXHIBIT 2,

which, abstracted to the issue, is in full substance as follows: Stock Certificate No. 229, for 100 shares of Common Stock of Century Investment Trust, issued to Frederick O. Knipe, dated August 15, 1930, signed by D. H. Shreve, Vice-President, and Glen O. Perkins, Assistant Secretary.

GOVERNMENT'S EXHIBIT 3,

which, abstracted to the issue, is in full substance as follows: Stock Certificate No. 74, for 200 shares of Preferred Stock of Century Investment Trust, issued to Frederick O. Knipe, dated December 20, 1929, signed by A. C. Shreve, Vice-President, and John C. Hobbs, Assistant Secretary.

The witness continuing: I knew something about a corporation known as the Security Building and Loan Association. I know Jesse Shreve and Archie

(Testimony of F. O. Knipe.)

Shreve. I first met Jesse Shreve prior to the organization of the Security Building and Loan Association. It must have been early in 1929, at the office of the Arizona Holding Company in the Santa Rita Hotel in Tucson. At that time I had a discussion with Mr. Shreve relative to the formation of the Security Building and Loan Association. I don't recall that any one else was present. Mr. Shreve said that they were contemplating organizing the Building and Loan, that he had invested money in it, and wanted me to make an additional investment. I think that was the important point of it. He said he was [167] expecting to go to Phoenix that afternoon to get a permit from the Corporation Commission for the Security Building and Loan Association. I did not make a further investment in the Security Building and Loan Association at that time. Supposedly, I was a director of the Arizona Holding Corporation but I never attended any meetings of that corporation, nor was I invited to attend. I did not see Mr. Shreve until the whole thing was in bankruptcy or receivership. The first time I saw him was here in Phoenix and then had a conversation with him relative to my stock in the Century Investment Trust. That conversation was held in the office of an attorney here in Phoenix by the name of Hash. We discussed the condition of the company and Mr. Shreve said he hoped he would be able to take our stock at some reduced price. He could not. It was dependent on his own personal

(Testimony of F. O. Knipe.)

affairs or personal outcome of the business pending, and so forth. He did not take up the stock at that time. The next time I saw Mr. Shreve was in Tucson at a meeting several stockholders had at Mr. Robson's house. I think there were present Mr. Robson, Manuel King, an attorney whose name I forget, Mr. Shreve, Mr. Robson's mother, and, I think, Mrs. Hannon. They were discussing the possibility of some kind of reimbursement to the stockholders. I had a discussion with Mr. Shreve personally after the meeting was over. Mr. Shreve said if I would come to San Diego he would try to make some trade in real estate. I went to San Diego in September and was shown property there but did not accept any for the stock. The property was all heavily mortgaged. I have never received anything for my stock.

Cross Examination

The stock I purchased for \$4500.00 was purchased from Glen O. Perkins. I met Jesse Shreve in Phoenix at Mr. Hash's office. I never had personally engaged Mr. Hash. Mr. Robson had. He was not Mr. Shreve's attorney that I know of. He was [168] engaged with the receivership or bankruptcy of the Security Building and Loan Association.

L. C. JAMES

called as a witness on behalf of the Government, testified:

I have resided in Tucson twenty years. I had something to do with the organization of the Arizona Holding Company which was first organized in 1928 or 1929. The officers first interested in the Arizona Holding Company were myself as President; the other officers were Dr. Morris, Dr. Thomas, and I believe a fellow named Anderson. The plan relative to the formation of the Arizona Holding Company was to sell stock in that company to the extent of \$50,000, and then form the Security Building and Loan Association. I know Jesse Shreve and first met him at Tucson in the Santa Rita Hotel. The Arizona Holding Company had an office in the Santa Rita Hotel which was rented from a concern that owned the Santa Rita Hotel at that time, some investment company. That is the company the Shreves were interested in at the time they owned the hotel. At the time, I think, I met three different Shreves. Neither of the defendants told me they were interested in the Santa Rita Hotel. I retained my connection with the Arizona Holding Company a little over a year, I think, and then informed Mr. Perkins I wanted to get out, and he said he could arrange it and afterwards introduced me to Jesse Shreve. I made arrangements with him to take over my interest in a note at the bank for \$15,000, and sold my interest to Jesse Shreve. The price was release on the note and I think \$250.00. I have

(Testimony of L. C. James.)

never had any connection with that company since. I turned over all my interest in the Arizona Holding Corporation to Jesse Shreve at that time.

Cross Examination.

The transaction which I had with Jesse H. Shreve when he [169] bought my interest in the Arizona Holding Company occurred, I think, the latter part of 1929, something like that. I did not originally discuss the organization of this company with Jesse H. Shreve or Archie Shreve. I was approached originally on this proposition by Mr. Perkins and Mr. Hobbs. That was in 1928, if I remember rightly, and they brought up the matter of forming a building and loan association in Tucson. At that time they only had one there, which was inactive, and after several conferences in my office, and I talked to some outside men friends of mine, we formed this Arizona Holding Corporation. This program of organization originally came to me from Mr. Perkins and Mr. Hobbs and I had not discussed the matter with Jesse Shreve or Archie Shreve. I never talked with Jesse Shreve or Archie Shreve until some time after the Arizona Holding Corporation was formed. I advised Mr. Perkins that I wanted to get out and he said he thought he could arrange that and it eventually led up to my being introduced to Jesse H. Shreve. I had never met either of the Shreves at that time. I think Mr. Perkins once or twice in conversation said he had connections on the coast,

(Testimony of L. C. James.)

that plenty of money could be obtained for the organization and make it a state-wide business, not just local. It was through Mr. Perkins who originally approached me that I sold my interest in the Arizona Holding Company to Jesse Shreve, and at the time I sold a couple of other gentlemen got out. I think they were Dr. Davis and Mr. Morris, and if I remember right, Mr. Anderson. I don't think Dr. Thomas sold at that time. I wanted to sell my interest in the Arizona Holding Company. My dealings were all through Perkins. My deal with Mr. Shreve took only a short time. I was on a note for \$15,000 to the bank and Mr. Shreve took care of that note. I was anxious to get off of it.

Redirect Examination.

Mr. Shreve took my stock. I don't recall how much I had, [170] I think \$5,000.00, something like that. Two other people besides myself were on that \$15,000 note.

Recross Examination.

One note was signed by the three of us. I was doing business at that bank at that time. The note was paid in full before I got out. There was no controversy with regard to the release of the sum of money which was borrowed on the note when the note was paid, because Mr. Shreve said he would take care of it, and it was done so.

(Testimony of L. C. James.)

Redirect Examination.

I think Mr. Shreve paid all the note before the release was made. I don't know whether he received any consideration from the other signers of the note for their stock in the Arizona Holding Corporation.

J. FRED TALLEY,

called as a witness on behalf of the Government, testified:

I reside in Phoenix and am Director of Securities for the Arizona Corporation Commission, and have been for three years past. As such I have in my custody and control the records of the Corporation Commission in regard to corporations and securities. Government's Exhibit 4 for identification is a record of the Arizona Corporation Commission.

Mr. Peterson: We offer this in evidence, your Honor.

Mr. Hardy: We object to the introduction of the document in evidence, your Honor. It discloses that it was filed with the Arizona Corporation Commission on May 10th, 1928, previous to the time that either of the defendants in this action had any dealings or transactions with the [171] Arizona Holding Company, the corporation named in the document.

The Court: What is it?

Mr. Peterson: Incorporation papers of the Arizona Holding Company.

(Testimony of J. Fred Talley.)

The Court: It may be received.

Mr. Hardy: Exception.

Government's Exhibit 4 was received in evidence.

GOVERNMENT'S EXHIBIT 4,

which, abstracted to the issue, is in full substance as follows: Articles of Incorporation of Arizona Holding Corporation, dated May 9, 1928, signed and acknowledged by Ben B. Matthews, Ralph W. Bilby and M. M. Sicard, on same date. Filed with the Arizona Corporation Commission May 10, 1928, at the request of Matthews and Bilby, Tucson, Arizona. Fixes particular place of business of corporation at Tucson, Arizona, and recites general nature of business to be transacted as follows: To hold, purchase, mortgage, etc., stock of other corporations; to make contracts, own, sell, mortgage, etc., real estate and all kinds of property; to issue, own, sell its own capital stock; and to do everything necessary and proper for accomplishment of the purposes of organization. Authorized capital stock is 5,000 shares common stock, without par value, \$500,000.00 divided into 5,000 shares of preferred stock, par value \$100.00 per share. Holders of the preferred stock shall be entitled to receive dividends of eight per cent per annum, computed from date when stock is issued, and payable before dividends on common stock, with provision that corporation, any time after January 1, 1930, may redeem all outstanding preferred stock at \$105.00 per share. Corporation

(Testimony of J. Fred Talley.)

shall exist for twenty-five years with privilege of perpetual succession.

The witness continuing: Referring to Government's Exhibit 5 for identification, this is one of the official records of the [172] Corporation Commission of the State of Arizona on file with that Commission, and has been in my custody.

Mr. Peterson: We offer it in evidence.

Mr. Hardy: Now, your Honor, we desire to make an objection to the receipt of this Government's Exhibit 5 in evidence, for the same reasons that we made to the introduction of Government's Exhibit 4, and for the additional reason that it purports to be an application addressed to the Arizona Corporation Commission for a permit to sell stock of the Arizona Holding Corporation, which is signed by L. C. James, and C. A. Thomas, previous to the time the Government's testimony now shows that either of the defendants had any connection with this corporation, and for the reason that these defendants cannot be bound by any representations made to the Arizona Corporation Commission in this application signed by L. C. James and C. A. Thomas.

The Court: It may be received.

Mr. Hardy: Exception.

Government's Exhibit 5 was received in evidence.

(Testimony of J. Fred Talley.)

GOVERNMENT'S EXHIBIT 5,

which, abstracted to the issue, is in full substance as follows: Application of Arizona Holding Corporation to Arizona Corporation Commission for permit to sell stock. Subscribed and sworn to by L. C. James and C. A. Thomas, President and Secretary respectively, on May 29, 1928. Filed with Arizona Corporation Commission on May 31, 1928. Requests permit to sell 2,000 shares of preferred stock, par value \$100.00 per share, total \$200,000.00 to be sold at \$100.00 per share; 2,500 shares of common stock, no par value. One share of common stock free with each share of preferred stock, [173] and the remaining 1,500 shares of common stock to be given Board of Directors. Twenty per cent of selling price of preferred stock to be paid to fiscal agent as and when stock sold, no commission to be paid on sale of common stock. To this permit is attached an agreement entered into between Arizona Holding Corporation and F. W. Hunter and H. R. Portman for the sale of stock described in said permit; minutes of organization meeting of the stockholders of Arizona Holding Corporation; minutes of first meeting of Board of Directors of Arizona Holding Corporation; resignations of Halph W. Bilby, Ben W. Matthews and M. M. Sicard as directors; specimen of preferred and common stock certificates; specimen of subscription agreement; copy of By-Laws.

(Testimony of J. Fred Talley.)

The witness continuing: Government's Exhibit 6 for identification, which you hand me, is an official record of the Arizona Corporation Commission of the State of Arizona.

Mr. Peterson: We offer this in evidence, your Honor.

Mr. Hardy: We object to the receipt of Government's Exhibit 6 in evidence, for the same reasons that we made to the receipt of Government's Exhibit 4 in evidence, and for the further reason that the Exhibit discloses upon its face that it was issued by the Arizona Corporation Commission upon an application for a permit not signed by either of these defendants, and that the permit was issued previous to the time that either of the defendants became in anywise connected with the Arizona Holding Corporation.

The Court: A permit to sell securities?

Mr. Peterson: Yes.

The Court: It may be received.

Mr. Hardy: Exception.

Government's Exhibit 6 was received in evidence.

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GOVERNMENT'S EXHIBIT 6,

which, abstracted to the issue, is in full substance as follows: Permit No. 6060, issued by Arizona Corporation Commission to Arizona Holding Corporation, dated June 9, 1928. Authorizes corporation to issue and sell 2,000 shares of preferred stock at par

(Testimony of J. Fred Talley.)

value of \$100.00 per share, and 2,500 shares of no par value common stock; one share of common stock to be given free with each two shares of preferred stock purchased; commission not to exceed twenty per cent may be paid for sale of 2,000 shares preferred stock, to be paid only upon amount collected in cash; not less than eighty per cent of moneys received from sale of stock shall be deposited with bank or trust company and held pending further orders of Commission, and while so deposited shall not be expended or withdrawn without written consent of Commission. Permit expires June 30th, 1929.

The witness continuing: Government's Exhibit 7 for identification, which you hand me, is an official record of the Arizona Corporation Commission.

Mr. Hardy: We object to the receipt of this Government's Exhibit 7 for identification in evidence for the same reasons heretofore objected to on the offer of Government's Exhibits 4, 5, 6 and 7, and for the additional reason that it appears to be a report of a sale of stock signed by L. C. James in the year 1928 of the Arizona Holding Company, previous to the time that either of the defendants had any connection with that company.

The Court: It may be received.

Mr. Hardy: Exception.

Government's Exhibit 7 was received in evidence.

(Testimony of J. Fred Talley.)

GOVERNMENT'S EXHIBIT 7,

which, abstracted to the issue, is in full substance as follows: [175] Quarterly Report returned to Arizona Corporation Commission sale of securities by Arizona Holding Corporation from June 9, 1928, to September 8, 1928, inclusive, under authorized permit No. 6060; subscribed and sworn to by L. C. James, President, on September 8, 1928. Report discloses various sales of stock of Arizona Holding Corporation to various persons, including M. M. King, Nellie E. Baker, O. H. and Mary Robson, and Harry Nelson.

The witness continuing: Government's Exhibit 8 for identification, which you hand me, is an official record of the Arizona Corporation Commission.

Mr. Hardy: We make the same objection to the introduction of Government's Exhibit 8 marked for identification for the same reasons that have heretofore been made to Government's Exhibit 4, 5, 6 and 7, and for the further reason it is hearsay as against these defendants.

The Court: What is it about?

Mr. Hardy: I would like to be permitted to enter our objections heretofore made on the other exhibits on the ground it is hearsay as to these defendants.

Mr. Peterson: This is a quarterly report of the Arizona Corporation for the sale of securities.

The Court: All right, it may be received.

Mr. Hardy: Exception.

(Testimony of J. Fred Talley.)

Government's Exhibit 8 was received in evidence.

GOVERNMENT'S EXHIBIT 8,

which, abstracted to the issue, is in full substance as follows: Quarterly Report returned to Arizona Corporation Commission of sale of securities by Arizona Holding Corporation from September 3, 1928, to December 3, 1928, under authorized permit No. 6060, [176] signed by Arizona Holding Corporation, without officers' signatures. Report discloses various sales of stock of Arizona Holding Corporation to various persons, including F. O. Knipe.

The witness continuing: Government's Exhibit 9 for identification, which you hand me, is an official record of the Arizona Corporation Commission.

Mr. Hardy: We make the same objections as have heretofore been made.

Mr. Peterson: This is a quarterly report, your Honor.

Mr. Hardy: Hearsay as to these defendants and no proper foundation has been laid for the admission of the Exhibit.

The Court: It may be received.

Mr. Hardy: Exception.

Government's Exhibit 9 was received in evidence.

GOVERNMENT'S EXHIBIT 9,

which, abstracted to the issue, is in full substance as follows: Quarterly Report returned to Arizona Corporation Commission of sale of securities by Ari-

(Testimony of J. Fred Talley.)

zona Holding Corporation, from December 6, 1928, to March 5, 1929, under authorized permit No. 6060; subscribed and sworn to by John C. Hobbs, Assistant Secretary, on March 11, 1929. Report discloses various sales of stock of Arizona Holding Corporation to various persons, including F. O. Knipe.

The witness continuing: Government's Exhibit 10 for identification, which you hand me, is an official record of the Arizona Corporation Commission.

Mr. Hardy: We make the same objections to this quarterly report, your Honor, that have heretofore been made.

The Court: Same ruling.

Mr. Hardy: Exception. [177]

Government's Exhibit 10 was received in evidence.

GOVERNMENT'S EXHIBIT 10,

which, abstracted to the issue, is in full substance as follows: Quarterly Report returned to Arizona Corporation Commission of sale of securities by Arizona Holding Corporation from March 9, 1929, to June 8, 1929, under authorized permit No. 6060; subscribed and sworn to on June 12, 1929, by J. G. Cash, Secretary. Report discloses various sales of stock of Arizona Holding Corporation to various persons, including J. H. Shreve, J. G. Cash, G. O.

(Testimony of J. Fred Talley.)

Perkins, M. J. King, Helen Hannon, Lulu Gatlin, A. C. Shreve and John C. Hobbs.

The witness continuing: Government's Exhibit 11 for identification, which you hand me, is an official record of the Arizona Corporation Commission. (The Court suggested to counsel for the Government that this Exhibit for identification be offered in evidence later.)

The witness continuing: Government's Exhibit 12 for identification, which you hand me, is an official record of the Arizona Corporation Commission.

Mr. Hardy: This is also a financial statement signed by James, your Honor, from September 3rd, 1928, to December 3rd, 1928, and we make the same objection to the admission of this exhibit as was made to Government's Exhibit 11 for identification.

The Court: All right, the same ruling.

Mr. Hardy: Exception.

Government's Exhibit 12 was received in evidence.

GOVERNMENT'S EXHIBIT 12,

which, abstracted to the issue, is in full substance as follows: Quarterly Report of receipts and expenditures of Arizona Holding Corporation to Arizona Corporation Commission from September 8, [178] 1928 to December 3, 1928, signed by L. C. James, President, on December 3, 1928, showing previous cash balance \$22,791.80, receipts \$14,700.55, total \$37,492.35; expenditures \$2,748.75, current cash balance \$34,743.60.

(Testimony of J. Fred Talley.)

The witness continuing: Government's Exhibit 13 for identification, which you hand me, is an official record of the Arizona Corporation Commission.

Mr. Peterson: We offer this in evidence.

Mr. Hardy: The same objection, your Honor, as to the last Exhibit.

The Court: What is it, another statement?

Mr. Peterson: It is at a later date.

The Court: The same ruling.

Mr. Hardy: Exception.

Government's Exhibit 13 was received in evidence.

GOVERNMENT'S EXHIBIT 13,

which, abstracted to the issue, is in full substance as follows: Quarterly Report of receipts and expenditures of Arizona Holding Corporation to Arizona Corporation Commission from December 6, 1928, to March 5, 1929, signed by John C. Hobbs, on March 11, 1929, showing previous cash balance \$34,743.60, receipts \$14,896.07, total \$59,190.77; expenditures \$2,496.40, current cash balance \$56,694.37.

The witness continuing: Government's Exhibit 14 for identification, which you hand me, is an official record of the Arizona Corporation Commission.

Mr. Hardy: The same objection to the admission of this Exhibit as heretofore made.

The Court: What is it, another financial statement?

Mr. Peterson: Yes, from the 7th—

(Testimony of J. Fred Talley.)

The Court: Same ruling.

Mr. Hardy: Exception. [179]

Government's Exhibit 14 was received in evidence.

GOVERNMENT'S EXHIBIT 14,

which, abstracted to the issue, is in full substance as follows: Quarterly Report of receipts and expenditures of Arizona Holding Corporation to Arizona Corporation Commission from March 7, 1929, to June 7, 1929, signed by J. G. Cash, Secretary, on June 12, 1929, showing previous cash balance \$56,694.37, receipts \$74,417.30, total \$131,112.07; total expenditures \$128,768.44, current cash balance \$2,343.63.

The witness continuing: Government's Exhibit 15 for identification, which you hand me, is an official record of the Arizona Corporation Commission.

Mr. Peterson: We offer this in evidence.

Mr. Hardy: This, your Honor, is an annual report of the Arizona Holding Corporation to the Arizona Corporation Commission for the fiscal year ending June 30th, 1930, signed by D. H. Shreve as President of that corporation. Object to the introduction of the document as to these defendants, for the reason that no proper foundation has been as yet laid for its admission, and it has not been shown either of these defendants had such a connection with the Arizona Holding Corporation at

(Testimony of J. Fred Talley.)

that time which would permit the introduction of the document as to them.

The Court: It may be received.

Mr. Hardy: Exception.

Government's Exhibit 15 was received in evidence.

GOVERNMENT'S EXHIBIT 15,

which, abstracted to the issue, is in full substance as follows: Annual report of Arizona Holding Corporation to Arizona Corporation Commission for fiscal year ending June 30, 1930, subscribed and [180] sworn to by D. H. Shreve, President, on July 10, 1930, showing capital stock structure of corporation and balance in treasury on June 28, 1930, of \$8,020.00. Attached to report is Exhibit A, showing three parcels of property valued at \$2028.00, \$2500.00 and \$4500.00, all situated in Maricopa County; also Exhibit E attached, being financial statement of June 30, 1930, showing total assets \$178,155.34 with deficit of \$7,966.09; total liabilities including capital stock outstanding \$132,000.00, of \$178,155.34; also Exhibit F attached, trial balance as of June 30, 1930, showing various debit items totaling \$261,822.14, with credits in identical amount, including item of authorized preferred capital stock in the sum of \$200,000.00.

The witness continuing: Government's Exhibit 16 for identification, which you hand me, is a certified copy of an official record of the Arizona Corporation Commission.

(Testimony of J. Fred Talley.)

Mr. Hardy: A Certificate of Incorporation, your Honor, of the Arizona Holding Corporation, dated May 14th, 1928. We object to its admission upon the same grounds that no proper foundation has been laid at this time for its admission and should not be binding upon either of the defendants in this action, because they had no interest or connection with the corporation as of the date of that Certificate of Incorporation.

The Court: It may be received.

Mr. Hardy: Exception.

Government's Exhibit 16 was received in evidence.

GOVERNMENT'S EXHIBIT 16,

which, abstracted to the issue, is in full substance as follows: Certificate of Incorporation of Arizona Holding Corporation, issued by Arizona Corporation Commission on November 24, 1933. [181]

The witness continuing: Government's Exhibits 17, 18 and 19, for identification, which you hand me, are official records of the Arizona Corporation Commission.

Mr. Peterson: We offer those in evidence your Honor.

The Court: What is it?

Mr. Peterson: It is a permission to release certain funds on order of the Corporation Commission.

Mr. Hardy: We object to this, your Honor, because no foundation has been laid for its admission and no proof has been offered by the Government which tends in any way to connect it with these

(Testimony of J. Fred Talley.)

defendants, and no proof has been offered that they had anything to do with the Arizona Holding Corporation at the time this order was made and entered by the Arizona Corporation Commission. It is hearsay as to them, irrelevant, immaterial and incompetent.

The Court: It may be received.

Mr. Hardy: Exception.

Government's Exhibits 17, 18 and 19 were received in evidence.

GOVERNMENT'S EXHIBIT 17,

which, abstracted to the issue, is in full substance as follows: Embraces three letters, signed January 24, 1929, by E. T. Cusick, attorney, addressed to Arizona Corporation Commission advising that Arizona Holding Company has on deposit on that date, in three banks in Tucson, the sum of \$56,580.27, and stating this amount held under permit issued to company until permission has been secured to release same; requests permission to release such amount for the purpose of depositing \$50,000.00 with the State Banking Commissioner for the purpose of organizing a Building and [182] Loan Association and to purchase office equipment and pay current expenses. Letters of same date attached from Southern Arizona Bank and Trust Company, Tucson, Consolidated National Bank, Tucson, and Arizona-Southwest Bank, Tucson, disclosing amounts deposited with such banks total said sum of \$56,580.27.

(Testimony of J. Fred Talley.)

GOVERNMENT'S EXHIBIT 18,

which, abstracted to the issue, is in full substance as follows: Letter dated June 26, 1929, signed by E. T. Cusick and addressed to Arizona Corporation Commission requesting that \$2500.00, under permit No. 6060 issued to Arizona Holding Corporation, be released for furniture, office fixtures and expenses. Notation on letter: "This is O K L.V. 1-26-29."

GOVERNMENT'S EXHIBIT 19,

which, abstracted to the issue, is in full substance as follows: Special Order No. 377, issued by Arizona Corporation Commission on January 28, 1929, authorizing release of \$2500.00 to Arizona Holding Corporation for purchase of office furniture, fixtures, safe and other incidentals, and for payment of office rent.

(Government's Exhibits 20 and 21 were marked for identification.)

The witness continuing: Government's Exhibit 22 for identification, which you hand me, is an official record of the Arizona Corporation Commission.

(Government's Exhibit 22 for identification was not offered by counsel for the Government at this time.)

The witness continuing: Government's Exhibit 23 for identification, which you hand me, is an official record of the Arizona Corporation Commission, as is Government's Exhibit 25 for identification.

(Testimony of J. Fred Talley.)

(Government's Exhibits 24 and 25 were marked for identification but Government's Exhibits 23, 24 or 25 were not offered by [183] counsel for the Government at this time.)

The witness continuing: Government's Exhibits 26, 27, 28, 29, 30, 31, 32 and 33 for identification, are official records of the Arizona Corporation Commission.

Mr. Peterson: We offer Government's 33 for identification in evidence, your Honor, being the Articles of Incorporation of the Security Building and Loan Association.

Mr. Hardy: We object to the introduction of the Exhibit, for the reason that it is not signed by either of the defendants in this action; no proof has been laid that they had any connection with the document and no proper foundation laid for its admission; hearsay as to them and irrelevant, incompetent and immaterial.

The Court: Overruled.

Mr. Hardy: Exception.

Government's Exhibits 26, 27, 28, 29, 30, 31, 32 and 33 were received in evidence.

GOVERNMENT'S EXHIBIT 26,

which is in full substance as follows: Telegram dated March 11, 1929, addressed by E. T. Cusick to Arizona Corporation Commission, as follows: "Please immediately wire release twenty thousand

(Testimony of J. Fred Talley.)

dollars Consolidated National Bank here this must be here before three o'clock today."

GOVERNMENT'S EXHIBIT 27,

which is in full substance as follows: Copy of telegram dated March 11, 1929, from McBride, Arizona Corporation Commission, to Consolidated National Bank, Tucson, as follows: "Commission authorizes release of twenty thousand dollars on deposit in name of Arizona Holding Corporation to meet two outstanding checks of [184] ten thousand dollars each."

GOVERNMENT'S EXHIBIT 28,

which is in full substance as follows: Copy of telegram dated March 11, 1929, addressed by McBride, Arizona Corporation Commission, to E. T. Cusick, attorney, Tucson, as follows: "Commission will authorize release of twenty thousand dollars on deposit with Consolidated National Bank in name of Arizona Holding Corporation to meet two outstanding checks of ten thousand dollars each stop bank notified."

GOVERNMENT'S EXHIBIT 29,

which, abstracted to the issue, is in full substance as follows: Letter dated March 11, 1929, addressed by E. T. Cusick, Attorney, to Arizona Corporation Commission, acknowledging receipt of telegram this date authorizing release of \$20,000.00 deposited in Consolidated National Bank, Tucson; advising that Security Building and Loan Association has on

(Testimony of J. Fred Talley.)

deposit with Superintendent of Banks or State Treasurer certificates of deposit numbers 14 to 18, inclusive, in sum of \$10,000.00 each, said certificates being on First National Bank of Prescott, Arizona; that Arizona Holding Corporation has approximately \$53,000.00 on deposit in three separate banks in Tucson, the major portion of which is credited to Arizona Holding Corporation in Consolidated National Bank, this amount being prior to honoring \$20,000.00 checks; advising that \$20,000.00 was used to reimburse parties who put up \$20,000.00 of the the \$50,000.00 on deposit with the State; advising that on March 9th directors' meeting of Arizona Holding Corporation passed resolution requesting release of all funds held by Arizona Holding Corporation; encloses verified abstract of meeting and requests release of all funds now held in escrow to credit of Arizona Holding Corporation; advises they are in position to transact business and further impounding of funds would embarrass corporation's operations. Verified abstract referred to attached.

GOVERNMENT'S EXHIBIT 30,

which, abstracted to the issue, is in full substance as follows: Letter dated March 14, 1929, addressed by E. T. Cusick, Attorney, to Arizona Corporation Commission, referring to letter dated March 11, 1929, disclosing funds of Arizona Holding Corporation in the total sum of \$36,633.82 deposited in three

(Testimony of J. Fred Talley.)

banks at Tucson, representing amount on deposit after \$20,000.00 deducted, which was released on March 11th, and also \$2500.00, which was released on January 28, 1929; advises company now doing business and has opportunity to make loans and investments. Requests immediate attention to the matter and urges money be released this week, if possible."

GOVERNMENT'S EXHIBIT 31,

which is in full substance as follows: Copy of telegram dated March 18, 1929, from Arizona Corporation Commission to E. T. Cusick, Attorney, Tucson, as follows: "Commission authorizes release of all monies held subject to our orders for Arizona Holding Corporation stop have wired banks."

GOVERNMENT'S EXHIBIT 32,

which is in full substance as follows: Telegram dated March 17, 1929, from E. T. Cusick to Arizona Corporation Commission, as follows: "Definitely advise my expense will money of Arizona Holding Corporation be released immediately."

GOVERNMENT'S EXHIBIT 33,

which, abstracted to the issue, is in full substance as follows: Articles of Incorporation of Security Building and Loan Association, executed and acknowledged March 5, 1929, by Louis T. Beach, E. T. Cusick, W. C. Evans, J. C. Barnes and H. V. Bell,

(Testimony of J. Fred Talley.)

incorpora- [186] tors. Recites purposes for which corporation formed, to encourage industry, frugality, home-building and savings among its shareholders, members and others; accumulation of savings of its shareholders, members and others of monies or funds so accumulated, with profits and earnings thereon, and the repayment to each of his savings and profits; generally to do all things authorized by law, and particularly by Chapter 31, 1922, Arizona Session Laws, Chapter 11, 1923, Arizona Session Laws, and Chapter 76, 1925, Arizona Session Laws. Principal place of business to be in Tucson. Corporation to exist twenty-five years from date of incorporation. Number of directors not less than five nor more than fifteen. Capital stock \$5,000,000.00, divided into 50,000 shares of the par value of \$100.00 each, which when issued shall be set apart as a future and permanent guaranteed capital. Additional working capital will be accumulated by issuance of membership shares, securities and certificates, both installment and full paid; that amount of capital stock actually subscribed is \$45,000.00, and the whole thereof has been subscribed to and fully paid by the Arizona Holding Corporation, a corporation organized and existing under laws of Arizona.

The witness continuing: Government's Exhibit 34 for identification, which you hand me, is an official record of the Arizona Corporation Commission.

Mr. Peterson: We offer it.

(Testimony of J. Fred Talley.)

Mr. Hardy: Object to the introduction of this document, your Honor, which appears to be the by-laws of the Security Building & Loan Association, not signed or attested by any of the defendants in this action; hearsay as to them and no proper foundation has been laid for its admission; irrelevant, incompetent and immaterial.

The Court: It may be received.

Mr. Hardy: Exception. [187]

Government's Exhibit 34 was received in evidence.

GOVERNMENT'S EXHIBIT 34.

which, abstracted to the issue, is in full substance as follows: By-Laws of Security Building and Loan Association, signed by Louis T. Beach, E. T. Cusick, W. C. Evans, J. C. Barnes, H. V. Bell, Directors, and attested by J. G. Cash, Secretary, dated March 5, 1929. Recites objects and purposes of organization to encourage industry, frugality and accumulation of savings among its shareholders, members and others, to make loans to shareholders, members and others for purpose of aiding them in acquiring and improving real estate. Capital stock: \$5,000,000.00 divided into 50,000 shares, par value \$100.00 each, shall be sold upon subscriptions at not less than par, payable not less than fifty per cent at the time of subscription. Stock not withdrawable until final liquidation and no loan shall ever be made upon pledge of any shares as security. Association shall set aside from earnings five per cent to a re-

(Testimony of J. Fred Talley.)

serve fund until such fund shall equal fifty per cent of total liability of the Association to its members. Amount not exceeding one per cent of average loans in force may be set aside out of net profits at each annual distribution thereof, or proportionate amount at each semi-annual distribution, to declare dividends and provide reserve fund. Affairs of corporation shall be managed by board of not less than five nor more than fifteen directors, elected annually from shareholders and members. Board of directors shall elect from their number a security committee to consist of three members and a finance committee to consist of two members. Powers and duties of the directors are to remove or suspend any elected officers; require the officers to produce for inspection all books of the corporation; to fill vacancies; to loan funds on such securities as provided by law; borrow money for the purpose of making loans or to pay withdrawals on maturity; majority of the Board shall [188] constitute a quorum. No action relating to funds or financial matters shall become effective except by affirmative vote of majority of the Board. By-Laws to provide duties of officers of corporation, including President, Secretary and Treasurer; to provide security committee to ascertain market value of the property offered as security, submitted in writing to loan committee, and application for loans shall be approved in writing by at least two members of the loan committee before loan shall be made. Provides

(Testimony of J. Fred Talley.)

finance committee shall examine report of all bills or claims and shall examine report on books and accounts of Secretary and Treasurer at least semi-annually. By-Laws further provide Secretary and Treasurer shall give bond; fixes compensation of officers and directors; provides annual fiscal year shall end close of December and annual meeting shall be held first Monday in February in Tucson. Special meetings may be called by board of directors. Board of directors shall convene on first Tuesday of each month and oftener if necessary. Membership shares shall have ultimate matured or par value of \$100.00 each and may be issued at such time as Board of Directors may prescribe. Membership shares may be classified as installment or full-paid. Full-paid membership shares may be issued to subscribers paying full face value of \$100.00. Dividends fixed by board of directors not exceeding net profits. Holders of membership shares shall have vote for each share. Fixes entrance fee of \$2.00. Investment certificates having an ultimate maturity value of \$100.00 issued in forms of pass book shares, full-paid investment coupon certificates, installment investment certificates, monthly income certificates and prepaid certificates. Holders of installment membership shares and installment investment certificates may withdraw part or all of credit by giving 30 days' notice. All withdrawals payable in succession and in order in which notices are filed. Loans may be made on such terms and

(Testimony of J. Fred Talley.)

rate of interest as board of directors may determine. Loans will only be made upon security of first mortgage or deed of [189] trust on real estate or upon securities or pledge of membership shares or investment certificates of Association or upon other bonds or securities approved by State Superintendent of Banks. Loans upon securities or membership shares or investment certificates shall not be made in excess of ninety per cent of withdrawal value of such shares. Borrowers who fail to pay shall pay interest not exceeding one per cent per month on amount of delinquent indebtedness. Each member and investor entitled to a certificate of "Membership Shares" or "Investment Certificates" which are transferable by assignment. By-Laws may be amended by either shareholders and members by affirmative vote of two-thirds thereof. Filed with Arizona Corporation Commission March 8, 1929.

The witness continuing: Government's Exhibit 35 for identification, which you hand me, is an official record of the Arizona Corporation Commission, but was not offered in evidence.

The witness continuing: Government's Exhibit 36 for identification, which you hand me, is an official record of the Arizona Corporation Commission.

Mr. Peterson: We offer this in evidence, your Honor.

(Testimony of J. Fred Talley.)

Mr. Hardy: We object to the introduction of the document, which is the appointment of agent, for the reason that no proper foundation has yet been laid for the admission in evidence. It is the appointment of agent, E. T. Cusick and signed by A. H. Shreve, President of the Security Building and Loan Association.

The Court: All right.

Mr. Hardy: Exception.

Government's Exhibit 36 was received in evidence.

GOVERNMENT'S EXHIBIT 36.

which, abstracted to the issue, is in full substance as follows: [190] Appointment of E. T. Cusick, Tucson, Arizona, as agent for Security Building and Loan Association, for purpose of service of process. Signed by J. H. Shreve, President, March 18, 1929. Attest J. G. Cash, Secretary.

The witness continuing: Government's Exhibit 37 for identification, which you hand me, is an official record of the Arizona Corporation Commission.

Mr. Hardy: Object to the introduction of Government's Exhibit 37 marked for identification, which purports to be the annual report of the Security Building & Loan Association, for the reason that no proper foundation has yet been laid by the Government for its admission; the document is improperly proved at this time to permit admission.

The Court: Who signed it.

(Testimony of J. Fred Talley.)

Mr. Peterson: J. H. Shreve, the annual report.

The Court: All right, it may be received.

Mr. Hardy: Assumes as being signed by J. H. Shreve, no actual proof it is signed by him. Exception.

Government's Exhibit 37 was received in evidence.

GOVERNMENT'S EXHIBIT 37.

which, abstracted to the issue, is in full substance as follows: Annual Report of Security Building and Loan Association at close of business June 30, 1929, submitted to Arizona Corporation Commission on August 1, 1929, disclosing Assets \$63,956.65; Liabilities \$43,956.85; Accumulations and capital stock paid up and issued \$40,000.00. Property owned, leased or controlled, None; Personal property situated at Tucson, money and mortgages \$63,209.56. Names of present officers and their addresses: J. H. Shreve, San Diego, California, 546 B Street; A. C. Shreve, San Diego, California, 546 B Street; J. G. Cash, Tucson, 101 Scott Street. Subscribed and sworn to at San Diego, California, by J. H. Shreve, [191] President, and J. G. Cash, Secretary, August 25, 1929, before Valeria Munter, Notary Public.

The witness continuing: Government Exhibit 38 for identification, which you hand me, is an official record of the Arizona Corporation Commission.

Mr. Peterson: We offer this in evidence, your Honor.

(Testimony of J. Fred Talley.)

Mr. Hardy: Object to the introduction of Government's Exhibit 38 for identification, which purports to be the annual report of the Security Building & Loan Association, for the reason that the document does not show that it was signed by either of the defendants or authorized by them; for the reason no proper foundation has as yet been laid for its admission and it is hearsay as to them, and the further reason it is immaterial, irrelevant, and incompetent.

The Court: It may be received.

Mr. Hardy: Exception.

Government's Exhibit 38 was received in evidence.

GOVERNMENT'S EXHIBIT 38.

which, abstracted to the issue, is in full substance as follows: Annual Report of Security Building and Loan Association at close of business June 30, 1930, submitted to Arizona Corporation Commission July 1, 1930. Discloses Assets \$158,733.30; Liabilities \$107,464.79; Accumulations \$11,268.51; Capital Stock paid up and issued \$40,000.00; Real property none. Personal property situated at Phoenix and Tucson consisting of cash \$17,305.18, loans receivable \$136,071.67, Furniture and fixtures \$1,642.35. Supplies \$1,449.47. Names of present officers and their addresses: J. H. Shreve, President, San Diego, California, 546 B Street; D. H. Shreve, Vice-President, Phoenix, Arizona, 117 N. Central Avenue; [192] J. R. DeLatour, San Diego, California, 2935-

(Testimony of J. Fred Talley.)

29th Street; Glen O. Perkins, Phoenix, Arizona, 117 N. Central Avenue. Subscribed and sworn to by D. H. Shreve, Vice-President, and Glen O. Perkins, Assistant Secretary, before E. F. Young, Notary Public, on July 1, 1930.

The witness continuing: Government's Exhibit 39 for identification, which you hand me, is an official record of the Arizona Corporation Commission.

Mr. Hardy: We object to the introduction of Government's Exhibit 39 marked for identification. It purports to be the Articles of Incorporation of the Century Investment Trust, for the reason that no proper foundation has been laid for its admission; it is irrelevant, incompetent and immaterial.

Mr. Peterson: It is the Articles of Incorporation of the Century Investment Trust.

The Court: All right, it may be received.

Mr. Hardy: Exception.

Government's Exhibit 39 was received in evidence.

GOVERNMENT'S EXHIBIT 39,

which, abstracted to the issue, is in full substance as follows: Articles of Incorporation of Century Investment Trust. Incorporators G. O. Perkins, A. C. Shreve, Phoenix, V. Munter, San Diego. Place of business Phoenix. Nature of business: To take, acquire, buy, hold, convey, lease, mortgage, etc., real estate and real property without limit, and all other kinds of property; to lend money on bonds secured

(Testimony of J. Fred Talley.)

by real property or personal property; to lend money and to make advances on bonds or money on real property or personal property; to erect buildings; to purchase, lease, mortgage, sell, mining property, reservoirs, etc., and carry on general real estate, loan and brokerage business; to purchase and finance commercial paper; to manage estates and act as agent and [193] broker; to loan money on real estate and buy commercial paper and mortgages; to act as fiscal agent or financial agent for corporations, associations, etc.; to act as agent for insurance companies; to act by way of surety or guaranty of persons, firms or corporations; to borrow money; to issue bonds, debentures, promissory notes, etc.; to purchase, hold and sell shares of its capital stock; to have one or more offices in Arizona, and generally to carry on any business in connection with powers enumerated. Recites total amount of authorized capital stock shall be 1,000,000 shares, without par value. Of total number of shares authorized 300,000 shall be preferred stock, 100,000 shall be Series A preferred stock, and 600,000 shall be common stock. The holders of record of preferred stock shall be entitled to receive out of surplus or net profits accumulated dividends not to exceed \$1.60 per share in a fiscal year, payable quarterly. Board of directors may declare additional non-cumulative dividends on preferred stock and Series A preferred stock and common stock concurrently with dividends on preferred stock. After

(Testimony of J. Fred Talley.)

foregoing dividends paid board of directors may declare non-cumulative dividend not to exceed \$7.10 per share. Board of directors may pay out of remaining surplus additional dividends on common stock. Series A preferred stock subject to redemption at \$7.00 per share. Owners and holders of Series A preferred stock have no voting power. Capital stock shall be paid in to corporation in cash or exchange of property. Corporation endures for twenty-five years with right of renewal for additional twenty-five years. Business conducted by board of directors consisting of not less than three nor more than fifteen members. Names of first officers of corporation G. O. Perkins, A. C. Shreve and V. Munter. Gives board of directors power to make by-laws. Signed August 22, 1929, by G. O. Perkins, A. C. Shreve and V. Munter.

The witness continuing: Government's Exhibit 40 for identification, which you hand me, is an official record of the [194] Arizona Corporation Commission.

Mr. Hardy: We object to the introduction of Government's Exhibit 40 marked for identification, for the reason that no proper foundation has been laid for its admission; it is hearsay, it is irrelevant, incompetent and immaterial.

Mr. Peterson: This, your Honor, is a Certificate of Incorporation of the Century Investment Trust, an official record of the Arizona Corporation Commission.

The Court: It may be received.

Mr. Hardy: Exception.

(Testimony of J. Fred Talley.)

Government's Exhibit 40 was received in evidence.

GOVERNMENT'S EXHIBIT 40,

which, abstracted to the issue, is in full substance as follows: Certificate of Incorporation of Century Investment Trust issued to Century Investment Trust on October 23, 1929, certified by Arizona Corporation Commission November 24, 1933.

The witness continuing: Government's Exhibit 41 for identification, which you hand me, is an official record of the Arizona Corporation Commission.

Mr. Peterson: We offer this in evidence.

Mr. Hardy: Object to the introduction of Government's Exhibit 41 marked for identification, which purports to be an application of the Century Investment Trust to sell shares of its preferred and common stock, for the reason that the document isn't signed by either of the defendants herein; no proper foundation has been laid for its admission; hearsay as to these defendants; and, for the further reason it is incompetent, irrelevant and immaterial.

[195]

The Court: It may be received.

Mr. Hardy: Exception.

Government's Exhibit 41 was received in evidence.

GOVERNMENT'S EXHIBIT 41,

which, abstracted to the issue, is in full substance as follows: Application of Century Investment

(Testimony of J. Fred Talley.)

Trust, filed with Arizona Corporation Commission October 22, 1929, for permit to sell and issue 50,000 shares of its preferred stock, of no par value, and 50,000 shares of common stock, of no par value, so as to net corporation for each unit of one share preferred and one share common stock \$20.00 per unit. Authorizes capital stock of 300,000 shares preferred stock, no par value, 100,000 Series A preferred stock, no par value, and 600,000 shares of common stock no par value. Officers and directors: G. O. Perkins, Director and President, A. C. Shreve, Director and Vice-President, and V. Munter, Director and Secretary-Treasurer. Gives references as to President, George Bedell, Vice-President Consolidated National Bank, Tucson, Fred Stewart, Tucson, M. Edward Olson Manager Santa Rito Hotel, Tucson, Arizona, J. C. Barnes, Heard Building, Phoenix, and C. Rose, Superintendent of Schools, Tucson. Gives references as to Secretary, J. H. Shreve, President Commonwealth Building Company, San Diego, California, J. R. DeLatour, Secretary Commercial Finance Corporation, 620 B Street, San Diego, California, I. I. Irwin, President San Diego Commercial & Savings Bank, San Diego, California; Harry Collins, Manager Pacific Finance Corporation, San Diego, California; Isador Goldstein, Manager Grand Rapids Furniture Company, San Diego, California. Signed by Glen O. Perkins, President, and attested by V. Munter, Secretary. Subscribed and sworn to October 22, 1929. Attached:

(Testimony of J. Fred Talley.)

Minutes of first meeting of incorporators, dated October 22, 1929, signed by G. O. Perkins, A. C. Shreve and V. Munter. Attached: Minutes of first meeting of Directors, showing G. O. Perkins, A. C. Shreve [196] and V. Munter as Directors, and signed and acknowledged by said persons. Attached: Form of stock certificate of preferred stock and common stock. Attached: Copy of subscription agreement; copy of by-laws.

The witness continuing: Government's Exhibit 42 for identification, which you hand me, is an official record of the Arizona Corporation Commission.

Mr. Hardy: We make the same objection to the admission of Government's Exhibit 42 marked for identification that was made to the admission of Government's Exhibit 41.

The Court: What is it?

Mr. Peterson: It is an application for permission to sell stock.

The Court: It may be received.

Mr. Hardy: Exception.

Government's Exhibit 42 was received in evidence.

GOVERNMENT'S EXHIBIT 42,

which, abstracted to the issue, is in full substance as follows: Application of Century Investment Trust to Arizona Corporation Commission for permit authorizing corporation to exchange 100,000 Series A preferred stock, no par value, and 450,000 shares of common stock, no par value, for such

(Testimony of J. Fred Talley.)

securities, personal property or real estate, on such terms as board of directors may direct. Subscribed and sworn to by G. O. Perkins, President, attested by V. Munter, Secretary, October 22, 1929. Gives same references as to President and Secretary of corporation as given in Exhibit 41. Attached: Form of certificate Series A preferred stock.

The witness continuing: Government's Exhibit 43 for identification, which you hand me, is an official record of the Arizona Corporation Commission.

Mr. Peterson: We offer this in evidence. [197]

Mr. Hardy: Object to the admission of Government's Exhibit 43 marked for identification for the reason that no proper foundation has been laid for its admission and it is hearsay as to the defendants; incompetent, irrelevant and immaterial.

The Court: What is it?

Mr. Peterson: It is the permission to sell stock by the Arizona Corporation Commission.

The Court: It may be received.

Mr. Hardy: Exception.

Government's Exhibit 43 was received in evidence.

GOVERNMENT'S EXHIBIT 43,

which, abstracted to the issue, is in full substance as follows: Permit Decision No. 5041, Investment Company, No. 4136-3-2349, Century Investment Trust, issued by Arizona Corporation Commission October 23, 1929. Authorizes corporation to sell 50,000 shares of no par value preferred stock,

(Testimony of J. Fred Talley.)

100,000 shares of no par value common stock, in units of one share preferred and one share common stock, at not less than \$25.00 per unit, to net company not less than \$20.00 per unit; commission of not to exceed twenty per cent to be paid on units. Permit granted upon condition that organizers pay to treasury \$40,000, to constitute working capital necessary to place company on going basis. Permit expires June 30, 1930, or automatically unless quarterly reports filed with Commission.

The witness continuing: Government's Exhibit 44 for identification, which you hand me, is an official record of the Arizona Corporation Commission.

Mr. Peterson: We offer this in evidence, if your Honor please.

Mr. Hardy: Another permit of the Century Investment Trust. We object to its reception in evidence for the same reasons as we objected to [198] Government's Exhibit 43.

The Court: It may be received.

Mr. Hardy: Exception.

Government's Exhibit 44 was received in evidence.

GOVERNMENT'S EXHIBIT 44,

which, abstracted to the issue, is in full substance as follows: Permit Decision No. 5014, Investment Company, No. 4126-3-2549, issued to Century Investment Trust by Arizona Corporation Commission dated October 23, 1929. Authorizes corporation to exchange 100,000 shares series A preferred stock, with-

(Testimony of J. Fred Talley.)

out par value, 450,000 shares common stock, without par value, for such stocks, bonds, securities, personal property and real estate as in judgment of board of directors is for the best interests of company. Permit expires June 30, 1930. Granted upon same conditions as imposed in Permit Decision No. 5041, (Exhibit 43).

The witness continuing: Government's Exhibit 45 for identification, which you hand me, is an official record of the Arizona Corporation Commission.

Mr. Peterson: We offer this in evidence, your Honor. It is a quarterly report of the Century Investment Trust to the Arizona Corporation Commission.

Mr. Hardy: Object to the admission of Exhibit marked for identification Government's 45, for the reason it is not signed by either of these defendants.

The Court: Who is it signed by?

Mr. Peterson: Signed by Glen O. Perkins.

The Court: It may be received.

Mr. Hardy: The same reasons that we objected to the former exhibit. Exception.

Government's Exhibit 45 was received in evidence.

GOVERNMENT'S EXHIBIT 45,

which, abstracted to the issue, is in full substance as follows: [199] Quarterly Report sales of securities October 29, 1929 to December 31, 1929, filed by Century Investment Trust with Arizona Corporation Commission August 1, 1930. Subscribed

(Testimony of J. Fred Talley.)

and sworn to by G. O. Perkins, Assistant Secretary, December 31, 1929. Shows sale of securities to various persons by A. C. Shreve and others, as agents, to A. C. Shreve, G. O. Perkins, V. Munter, Century Corporation, O. H. and Mary Robson, Harry Nelson, Manuel J. King, and Arizona Holding Corporation. Subscribed and sworn to by Glen O. Perkins, December 31, 1929.

The witness continuing: Government's Exhibit 46 for identification, which you hand me, is an official record of the Arizona Corporation Commission.

Mr. Peterson: We offer this in evidence, your Honor. It is another quarterly report signed by Glen O. Perkins.

Mr. Hardy: The same objection as we made to the previous exhibit, your Honor.

The Court: The same ruling.

Mr. Hardy: Exception.

Government's Exhibit 46 was received in evidence.

GOVERNMENT'S EXHIBIT 46,

which, abstracted to the issue, is in full substance as follows: Quarterly Report Sales of securities January 1, to June 30, 1930, filed by Century Investment Trust with Arizona Corporation Commission August 1, 1930. Subscribed and sworn to by G. O. Perkins, Assistant Secretary July 1, 1930. Shows sale of securities to various persons by A. C. Shreve, G. O. Perkins and M. J. Hughes, as agents.

(Testimony of J. Fred Talley.)

The witness continuing: Government's Exhibit 47 for identification, which you hand me, is an official record of the Arizona Corporation Commission.

Mr. Peterson: We offer this in evidence, your Honor. [200]

Mr. Hardy: We object to the introduction of Government's Exhibit 47 marked for identification for the reason that no proper foundation has been laid for its admission; does not purport to be signed by either of the defendants herein; it is hearsay, irrelevant, incompetent and immaterial.

The Court: It may be received.

Mr. Hardy: Exception.

Government's Exhibit 47 was received in evidence.

GOVERNMENT'S EXHIBIT 47,

which, abstracted to the issue, is in full substance as follows: Quarterly Report of receipts and expenditures by Century Investment Trust to Arizona Corporation Commission, October 29 to December 1, 1931, filed with the Arizona Corporation Commission December 11, 1930. Shows statement as of December 31, 1929:

(Testimony of J. Fred Talley.)

ASSETS:

Cash	\$ 7,589.99
Notes Receivable	48,401.87
Stocks and Bonds	860,050.00
Accounts Receivable	1,738.03
	<hr/>
	\$917,779.88

LIABILITIES:

Accounts Payable	\$ 1,500.00
Commission Payable	2,427.49
Capital	640,169.00
Contingent Fund	100,000.00
Reserve	50,000.00
Surplus	100,000.00
Surplus & Undivided Profits	23,683.39
	<hr/>
	\$917,779.88

Signed by G. O. Perkins, Assistant Secretary.

The witness continuing: Government's Exhibit 48 for identification, which you hand me, is an official record of the Arizona Corporation Commission.

Mr. Peterson: We offer this in evidence, your Honor. [201]

Mr. Hardy: The same objection as we made to the last exhibit.

Mr. Peterson: This is a quarterly report of the Century Investment Trust signed by Glen O. Perkins.

The Court: It may be received.

Mr. Hardy: Exception.

(Testimony of J. Fred Talley.)

Government's Exhibit 48 was received in evidence.

GOVERNMENT'S EXHIBIT 48,

which, abstracted to the issue, is in full substance as follows: Quarterly Report of receipts and expenditures of Century Investment Trust to June 30, 1930, to Arizona Corporation Commission, filed with the Arizona Corporation Commission August 1, 1930. Shows as follows:

ASSETS:

Cash	\$ 619.43
Real Estate	100.00
Stocks and Bonds	888,213.65
Notes and Mortgages Receivable	113,286.63
Accounts Receivable	35,751.88
Advances to Subsidiaries	9,036.09
Organization Expense	5,000.00
Commissions on Stock Sales	8,617.61
Other Assets	1,411.70

\$1,062,036.99

LIABILITIES:

Capital	\$ 670,768.00
Surplus and Undivided Profits	152,253.90
Reserve	150,000.00
Unearned Discount	8,644.04
Notes Payable	66,098.69
Accounts Payable	12,302.36
Other liabilities	1,950.00

\$1,062,036.99

Subscribed and sworn to by G. O. Perkins, Assistant Secretary.

(Testimony of J. Fred Talley.)

The witness continuing: Government's Exhibit 49 for identification, which you hand me, is an official record of the Arizona Corporation Commission.

Mr. Peterson: We offer this in evidence, your [202] Honor. This is the annual report of the Century Investment Trust signed by D. H. Shreve.

Mr. Hardy: The same objection as heretofore *been* made to the introduction.

The Court: The same ruling.

Mr. Hardy: Exception.

Government's Exhibit 49 was received in evidence.

GOVERNMENT'S EXHIBIT 49,

which, abstracted to the issue, is in full substance as follows: Annual Report to Arizona Corporation Commission of Century Investment Trust for fiscal year ending June 30, 1930, filed with Arizona Corporation Commission August 1, 1930. Discloses incorporated for 300,000 shares no par value preferred stock, 600,000 shares no par value common stock, and 100,000 shares no par value series A preferred stock, total 1,000,000 shares. Lists property owned June 30, 1930, as Lot 39, La Cresta Terrace, San Diego, California, \$100,000. Shares issued during fiscal year ending June 30, 1930; shares sold 400,000, stock sold in Arizona 26,162, total 426,162 shares; balance in treasury July 1, 1930, 573,838 shares. Amount turned into treasury from proceeds of sales of stock \$306,633.39. Exhibit A attached discloses

(Testimony of J. Fred Talley.)

property owned as above. Exhibit B attached discloses number of shares sold 10,874 units at \$25.00 per unit, \$271,850.00; commission paid \$8,405.11; Net \$263,444.89; 2000 series A preferred at \$21.00 per unit, \$42,000.00, commission paid None, Net \$42,000.00. 14 shares Series A preferred at \$100.00 per share, \$1,400.00, commission paid \$217.50, Net \$1,187.50. Exhibit D attached shows distribution of funds received from stock not reported because commingled and impossible to segregate. Exhibit E attached: Statement as of June 30, 1930, as follows: [203]

ASSETS:

Cash	\$	619.43
Real Estate		100.00
Stocks and Bonds		888,213.65
Notes & Mortgages Receivable		113,265.63
Accounts Receivable		35,751.88
Advances to Subsidiaries		9,036.09
Organization Expense		5,000.00
Commissions on stock sales		8,617.61
Other assets		1,411.70

\$1,052,036.99

LIABILITIES:

Capital	\$	670,000.00
Surplus and undivided profits		152,253.90
Reserves		150,000.00
Unearned discount		8,664.04
Notes Payable		66,098.69
Accounts payable		12,302.36
Other liabilities		1,950.00

\$1,062,036.99

(Testimony of J. Fred Talley.)

Exhibit F attached: Trial balance as of June 30, 1930, as follows:

	Debit	Credit
Cash	\$ 276.17	\$
Petty cash	13.00	
Security Bldg. & Loan, Tucson	68.61	
" " " " Phoenix	261.65	
Real Estate	100.00	
Stocks and Bonds	888,213.65	
Notes & Mortgages Receivable	113,286.63	
Accounts Receivable	35,377.19	
Furniture and Fixtures	50.00	
Insurance Accounts Receivable	374.69	
Transfer of Funds		1,950.00
Organization Expense	5,000.00	
Capital account—Preferred		257,480.00
Capital account—common		362,874.00
Capital account—Series A. Pref.		50,414.00
Capital Surplus		144,482.00
Reserve		50,000.00
Contingent Fund		100,000.00
Dividend Account	11,876.85	
Unearned Discount		8,664.04
Notes Payable		66,098.69
Accounts Payable		12,302.36
Contingent Commissions		46,032.39
Suspense	1,361.70	
Interest earned		3,316.91
Commissions earned		5,207.50
Discounts earned		12,918.50
Insurance Commissions		244.46
Stock and Bond sales		1,350.00
Cost of Stock and Bond sales	600.00	
Real Estate sales		9,600.00
Cost of real estate sales	2,700.00	
Miscellaneous earnings		367.60
General expense	8,658.07	
Advances—Sec. B & L Tucson	413.66	

(Testimony of J. Fred Talley.)

	Debit	Credit
Advances—Sec. B & L Phoenix	8,622.43	
Interest paid	1,398.15	
Commissions on sale of capital stock	54,630.00	
	\$1,133,302.45	\$1,133,302.45

The witness continuing: Government's Exhibits 50, 51, 52, 53 and 54, for identification, which you hand me, are official records of the Arizona Corporation Commission.

(Government's Exhibits 50, 51, 52, 53 and 54 for identification were not offered in evidence at this time by counsel for the Government.)

E. T. CUSICK,

called as a witness on behalf of the Government, testified:

I have resided in Tucson, Arizona, for nineteen years and have practiced law there since 1923. I incorporated the Security Building and Loan Association. Either John Hobbs or Glen Perkins, or both of them, first conferred with me. Later I conferred with Jesse Shreve, and my best memory is that I conferred with Jesse Shreve before the incorporation. Government's Exhibit 56 for identification is the original Articles of Incorporation of the Security Building and Loan Association which was recorded in the Pima County Recorder's office.

(Testimony of E. T. Cusick.)

Government's Exhibits 56 and 57 were received in evidence.

GOVERNMENT'S EXHIBIT 56,

which, abstracted to the issue, is in full substance as follows: Certified copy of Articles of Incorporation of Security Building and Loan Association, issued by Arizona Corporation Commission, March 8, 1929. These Articles of Incorporation are exactly the same as the Articles of Incorporation referred to and set forth in Government's Exhibit 33.

GOVERNMENT'S EXHIBIT 57,

which, abstracted to the issue, is in full substance as follows: Certificate of Incorporation of Security Building and Loan Association, issued by the Arizona Corporation Commission on September 5, 1929.

The witness continuing: I signed the letter which is Government's Exhibit 17 for identification.

Government's Exhibit 17 was heretofore received in evid- [205] ence during the testimony of the witness Talley, and is there set forth.

The witness continuing: At the time I mailed that letter I did some work for the Arizona Holding Corporation. Government's Exhibit 18 for identification was mailed from my office and signed by me.

Government's Exhibit 18 was heretofore received in evidence during the testimony of the witness Tally, and is there set forth.

Thereupon Government's Exhibit 19 was read to the jury by counsel for the Government.

(Testimony of E. T. Cusick.)

Mr. Peterson: We offer Government's Exhibit 20 for identification in evidence.

Thereupon Government's Exhibit 20 was read to the jury by counsel for the Government.

GOVERNMENT'S EXHIBIT 20,

which, abstracted to the issue, is in full substance as follows: Letter dated February 7, 1929, signed by E. T. Cusick, attorney, addressed to Arizona Corporation Commission, enclosing a carbon copy of letter addressed by same party to State Banking Department, dated February 7, 1929, explaining status of relation existing between Arizona Holding Corporation and proposed Arizona Building and Loan Association; enclosing check for \$32.00 for issuing charter of Building and Loan Association, and also enclosing duplicate copies of charter.

The witness continuing: The telegram, being Government's Exhibit 21 for identification, was signed by me.

Government's Exhibit 21 was received in evidence.

GOVERNMENT'S EXHIBIT 21,

which is in full substance as follows: Telegram dated March 8, 1929, signed by E. T. Cusick and addressed to Maebelle Craig, [206] Corporation Commission, Phoenix, Arizona, as follows: "Kindly do anything necessary by way of showing cause to secure release of funds in Consolidated National Bank this held for credit of Security Building and Loan

(Testimony of E. T. Cusick.)

Association stop Shreve and myself rely upon you for immediate action and costs if any we shall make good this must be done Saturday morning." Notation: "Ans by phone by McBride 3-9-29 MBC."

The witness continuing: When I say "both Shreve and Lewis", I am not positive, but I believe I was talking about Jesse Shreve. I had dealings with both but mostly with Jesse Shreve. I signed Government's Exhibit 22 for identification.

Government's Exhibit 22 was received in evidence.

GOVERNMENT'S EXHIBIT 22,

which is in full substance as follows: Telegram dated March 8, 1929, signed by E. T. Cusick to Arizona Corporation Commission, Phoenix, Arizona, as follows: "Regarding Security Building and Loan Association kindly consider this a showing of cause for application for release of funds of this company above named stop at my expense please immediately wire me for use with the Consolidated National Bank of release of funds therein held for the credit of this association or at my expense you wire bank release."

The witness continuing: I sent the telegram, being Government's Exhibit 23 for identification.

(Testimony of E. T. Cusick.)

Government's Exhibit 23 was received in evidence.

GOVERNMENT'S EXHIBIT 23,

which is in full substance as follows: Telegram dated March 9, 1929, signed by E. T. Cusick to Arizona Corporation Commission, Phoenix, Arizona, as follows: "Board of Directors Arizona Holding Corporation authorize me to request immediate release of their funds in the Consolidated National Bank of this city wire release [207] to bank or me immediately final application follows by mail."

The witness continuing: Government's Exhibit 58 for identification are all in my handwriting. They were taken in the Adams Hotel in Phoenix, in a room, I think, that was occupied by Jesse Shreve. These have been in my files ever since that time, until I delivered them here in court.

EXAMINATION BY MR. HARDY

Government's Exhibit 58 for identification are notes of a meeting or transaction in which I participated as a lawyer. I was then representing the Arizona Holding Corporation and the Security Building and Loan Association, doing work that was requested of me by Jesse H. Shreve. I wouldn't say I was his individual attorney, although I had done work for both Mr. Shreve and, I believe, the Overland Hotel and Investment Company. If I am not mistaken I represented them in a personal injury suit. At this particular time, and with refer-

(Testimony of E. T. Cusick.)

ence to this exhibit, I would think I was representing Mr. Shreve. These notes only refer to a meeting of the corporation.

Government's Exhibit 58 for identification was received in evidence.

GOVERNMENT'S EXHIBIT 58,

which, abstracted to the issue, is in full substance as follows: Notes in the handwriting of Government's witness E. T. Cusick of the first meeting of board of directors of Security Building and Loan Association, held in Adams Hotel on March 8, 1929, at 3:30 P. M. Recites present: Louis T. Beach, E. T. Cusick, W. C. Evans, J. C. Barnes and H. V. Bell. Meeting held in the room of J. H. Shreve, Absent: None. W. C. Evans, chairman, E. T. Cusick, secretary. Election of officers: J. H. Shreve, President; A. C. Shreve, Vice-President; J. G. Cash, Secretary-Treasurer; J. C. Hobbs, Assistant Secretary. By-Laws adopted and appointment of statutory agent. Also meeting of Arizona Holding Corporation, showing: J. H. Shreve, President; F. O. Knipe, Vice-President; [208] A. C. Shreve, Vice-President; J. G. Cash, Secretary-Treasurer; W. C. Evans, Director; J. C. Barnes, Director; E. T. Cusick (?). Present: J. H. Shreve, Cash, E. T. Cusick; absent, Knipe, Barnes, Evans, A. C. Shreve.

The witness continuing: The occasion of making the notes, as I remember it, was to have officers of the Arizona Holding Corporation present in Phoenix in order that they could secure the release of

(Testimony of E. T. Cusick.)

funds necessary to put up the bond in the sum of \$50,000 to secure the opening of business of the Security Building and Loan Association. It is my memory that officers of the Arizona Holding Corporation were elected at that time. Offhand, I am not able to name those who were present at that time, but I think there were five people. I believe a man named Beach, I am not sure, Jesse Shreve, and I were present. I do not want to be positive who the other two or three were. Officers of the Arizona Holding Corporation were elected at that time.

(Counsel for the Government thereupon read Government's Exhibit 58 to the jury.)

The witness continuing: I signed that letter which is Government's Exhibit 29 for identification. The document attached to it was the application which I signed for the withdrawal of funds authorized at the meeting.

Thereupon Government's Exhibit 29 was read to the jury, said exhibit having heretofore been received in evidence during the testimony of the witness Talley, and is there set forth.

The witness continuing: Government's Exhibit 24 for identification is a copy of a telegram I received.

Government's Exhibit 24 was received in evidence.

GOVERNMENT'S EXHIBIT 24,

which is in full substance as follows: Copy of undated telegram signed by McBride, Arizona Cor-

(Testimony of E. T. Cusick.)

poration Commission, addressed [209] Phoenix, to E. T. Cusick, attorney, Tucson, as follows: "Your telegram too indefinite stop wire reason for releasing money to Arizona Holding Company stop do you intend to finance Security Building and Loan Association or what is the money to be used for stop Commission will not act unless fully advised."

(Government's Exhibit 24 was read to the jury by counsel for the Government.

The witness continuing: I sent that telegram which is Government's Exhibit 25 for identification.

Government's Exhibit 25 was received in evidence.

GOVERNMENT'S EXHIBIT 25,

which is in full substance as follows: Telegram dated March 11, 1929, addressed by E. T. Cusick to Arizona Corporation Commission, as follows: "Arizona Holding Company has already made loans and investments subject to release of funds stop Security Building and Loan Association independent of other company has fifty thousand up with banking department stop release funds before checks are dishonored wire release or telephone me immediately."

(Government's Exhibit 25 was thereupon read to the jury by counsel for the Government.)

The witness continuing: I sent that telegram which is Government's Exhibit 26 for identification.

Thereupon Government's Exhibit 26 was read to the jury, said exhibit having heretofore been re-

(Testimony of E. T. Cusick.)

ceived in evidence during the testimony of the witness Talley, and is there set forth.

The witness continuing: I received the original of Government's Exhibit 28 for identification.

Thereupon Government's Exhibit 28 was read to the jury, said exhibit having heretofore been received in evidence during the testimony of the witness Talley, and is there set forth.

The witness continuing: I signed that letter which is Government's Exhibit 30 for identification. [210]

Thereupon Government's Exhibit 30 was read to the jury, said exhibit having heretofore been received in evidence during the testimony of the witness Talley, and is there set forth.

The witness continuing: I sent that telegram which is Government's Exhibit 32 for identification.

Thereupon Government's Exhibit 32 was read to the jury, said exhibit having heretofore been received in evidence during the testimony of the witness Talley, and is there set forth.

The witness continuing: I received that wire which is Government's Exhibit 31 for identification.

Thereupon Government's Exhibit 31 was read to the jury, said exhibit having heretofore been received in evidence during the testimony of the witness Talley, and is there set forth.

The witness continuing: I did not personally know what the release of funds held in escrow in banks was for. My best recollection is that I received the information in order to have those funds

(Testimony of E. T. Cusick.)

released from either Mr. Perkins and Jesse Shreve, or both of them.

Mr. Hardy: The answer of the witness is indefinite, your Honor, and we move that it be stricken and the jury advised not to consider it.

The Court: That is all any witness can testify to, is his best recollection.

Mr. Hardy: That is very well, but attaching that recollection to one of two persons is very indefinite.

The Court: It may stand.

Mr. Hardy: Exception.

Cross Examination

My recollection is that the firm of Mathews and Bilby incorporated the Arizona Holding Corporation and that the charter and minutes were brought to me and I did some work for them after that. One of three persons brought the charter and minutes [211] to me but who did it I could not be positive. I am quite positive Glen Perkins first consulted me with respect to the first work I did with respect to the Arizona Holding Corporation. That was in my office in Tucson. The only way I can fix an approximation of the date was about the time I sent a telegram to the Arizona Corporation Commission asking if the name "Arizona Security Building and Loan Association" was available for corporate name. I think that was about the 25th or 26th of January, 1929. I sent that telegram, I believe, at the request of Glen Perkins. I had known Glen Perkins before

(Testimony of E. T. Cusick.)

he consulted me with respect to either of these corporations, I believe, when he was Superintendent of Schools, or Principal of High Schools, in Tucson, and I was a law student at the University of Arizona in 1920 or '21. I was not intimately acquainted with him. I know John Hobbs very well and went to school with him in Tucson; think we graduated the same year, played football together and were quite well acquainted. Sometimes Mr. Hobbs consulted me about the Arizona Holding Corporation and the Security Building and Loan Association. It is correct that Glen Perkins and John Hobbs first consulted me with respect to these corporations. I don't know whether that was before I knew Jesse Shreve but they certainly were the first ones who negotiated with me about the Security Building and Loan and the Arizona Holding Corporation. I don't think Jesse Shreve or Archie Shreve ever discussed with me either of these corporations before John Hobbs and Glen Perkins discussed them with me. I do not know who originally conceived the idea of organizing the Arizona Holding Corporation. It was organized when I first heard of it. The times I have testified about I knew L. C. James, Dr. Bascomb Morris and Dr. C. A. Thomas. I later learned that they were officers and also Mr. Perkins and Mr. Hobbs. One time I was an officer of it for a client of mine by the name of Melville H. Haskell, who had invested \$5,000. I do not think that was before Jesse H. Shreve or Archie Shreve consulted

(Testimony of E. T. Cusick.)

me with regard [212] to either of these corporations. It is too long ago for me to be definite as to that but I do know that James, Dr. Morris and Dr. Thomas were associated with the organization of the Arizona Holding Corporation, and the records show that they were originally associated. Later I talked with them and determined that they had been associated with the idea of organizing the Arizona Holding Corporation. In other words, the minutes or the Articles were brought to me showing they were officers, if I am not mistaken, that is my best memory. I wouldn't want to be positive that that was before I talked to Mr. Shreve or any of the Shreves about the organization. I knew L. C. James before that. As far as I know he bears a good reputation in Tucson as a business man. As far as I know he did at the time he associated himself with the Arizona Holding Corporation. I was acquainted with Dr. Bascomb Morris during these times.

Q. And he was a representative outstanding physician in Tucson, was he not?

Mr. Peterson: We object to that, I don't think it is material.

The Court: I don't think so either.

Mr. Hardy: Is the objection sustained?

The Court: Yes.

Mr. Hardy: Exception.

The witness continuing: I know Dr. C. A. Thomas to speak to him.

(Testimony of E. T. Cusick.)

Q. You know he was then and is now an outstanding physician and surgeon in the city of Tucson?

Mr. Peterson: We object to that, your Honor, that is a matter of opinion.

The Court: Sustained.

Mr. Hardy: Exception.

The witness continuing: I testified at the trial of this case in 1934 and I was asked then:

“Q. Do you remember about [213] testifying before Judge Jacobs in a bankruptcy case in Phoenix on the 24th day of May, 1932?” And you answered, “Yes, sir.” And then you were asked this question:

“Q. You were employed by the Arizona Holding Corporation from its inception?

A. I could not answer that, Mr. Scott, because I don't know. I might explain by answering or stating that I was handling the Articles of the Arizona Holding Corporation which had been organized with the Arizona Corporation Commission, and I was getting the Articles and By-Laws and was told that the Company was to control the stock of the Security Building and Loan Association. I was asked by Mr. Perkins, if I am not mistaken, if I would form a corporation to be known as the Building and Loan—as the Building and Loan, and I agreed to do so.” To the best of my memory I gave that answer. I remember I testified but I don't know when. In the last trial of this case with refer-

(Testimony of E. T. Cusick.)

ence to your testimony given before Judge Jacobs in 1932, do you recall that this question was asked you, and this answer given:

“Q. And were you then not asked the question if the original formation of the Security Building and Loan Association was not entirely by Tucson people, and you replied that it was?

A. Yes, sir, I think so.

Q. And gave the names there, J. R. Thomas?

A. Yes, sir.

Q. L. C. James?

A. Yes, sir.

Q. L. C. James and Dr. Thomas?

A. C. A. Thomas.

Q. And Dr. Morris?

A. We had a good reporter down there, and I don't believe I said that.

Q. Then were you not asked this question, and did you not give this reply: ‘It was a considerable time subsequent to the formation before Mr. Shreve was first known by you or was first interested?’ And did you not answer ‘My only knowledge as to the first time I was acquainted with Mr. Shreve in connection with it was at the time bonds or securities were put up authorizing to do business, which was subsequent to the time of the formation, that is my memory.’

A. That is correct, I think I testified that way.” That is still my memory, except the last statement. I would have to read it again, the [214] last answer.

(Testimony of E. T. Cusick.)

I don't remember exactly what you said there now. That is substantially correct, no question about that.

You considered Mr. Perkins a Tucson person. The Arizona Holding Corporation and the idea of organizing the building and loan association was a plan of Tucson people, but my understanding is that Mr. Perkins did not live in Tucson at that time. My original dealings were with Mr. Perkins and the minutes will show who were the parties that were interested. I have not that good a memory, to say all the people interested in it. Exhibit 58 which I identified are some notes in my own handwriting made here in Phoenix. The first page contained the first meeting of the Board of Directors of the Security Building and Loan Association. The second is a special meeting held three days later at the Santa Rita Hotel, and the third page is the Arizona Holding Corporation. Whoever was stated there was present. I was introduced to Mr. Beach, I think, that day. I have his residence in Tucson and I presume that is correct. I wouldn't know the man today if I saw him. I don't know that I ever saw him before or since. That is my handwriting on Exhibit 58. W. C. Evarts (evidently Evans), given as a resident of Prescott, is my handwriting. With reference to J. C. Barnes and H. V. Bell, of Phoenix, that was information given to me and I put it on that piece of paper. I had several meetings with Wallace Button, Superintendent of Banks, and some of the Directors were present. At that time there

(Testimony of E. T. Cusick.)

were meetings at the Adams Hotel and at the Corporation Commission office and at the office of the Superintendent of Banks. I don't mean formal meetings that were written up but there were a lot of meetings and conferences with the Superintendent of Banks and the Arizona Corporation Commission. Apparently the purpose of those meetings was to get a release of money held in the banks in Tucson. As I recall it, one was to pay for furnishings to fit a suite of offices at the Santa Rita Hotel, one was to get a release of some \$20,000 for two checks that apparently had been [215] issued. I do not know the details. Just the best of my memory, and then to secure the full release of the balance of the funds from the control of the Arizona Corporation Commission. It was my understanding that the real purpose was to release these funds in order that the Building and Loan Association could begin business. I advised them that they had to put up \$50,000 before they could qualify as a Building and Loan Association. I told the Directors that they would have to do it before they could start business. My understanding was that was the reason why I wanted to get these funds released; they told me they had made loans and funds would have to be released to do business. I do not recall whether it was the Holding Company that made the loans or the Security Building and Loan Association. The Security Building and Loan Association was not authorized to transact any business at that time.

(Testimony of E. T. Cusick.)

It couldn't make loans. I do not recall whether or not I obtained the Permit from the Arizona Corporation Commission for the Security Building and Loan Association to transact its business. I didn't handle all the legal details in connection with the organization of the Security Building and Loan Association up to the time it was qualified to function as such in the State of Arizona. I did all but take care of the bond and I do not know how the bond was taken care of. I handled all the remaining corporate details. If you refer to getting the certificate and filing the Articles, and the By-Laws being approved and filed. As far as I know, as an attorney for both the Arizona Holding Corporation and the Security Building and Loan Association, everything was conducted in regular order. As far as I know the program and details and everything else that was done in connection with these corporations was perfectly open and aboveboard. I did some work for them for a short time. I know I passed on the title to one or two pieces of property, and outside of that, I do not recall ever having any further dealings. I may have had some but very little, if any, as I recall. I had no business dealings [216] with them that I recall after the incorporation. There may have been one or two incidental things but it makes no impression on me. As far as I know everything was perfectly regular in connection with both of these corporations. I could not tell you that it was early in March of 1929

(Testimony of E. T. Cusick.)

that Mr. Shreve consulted me with regard to either of these corporations. I may have some correspondence in an old file that might refresh my memory, but my recollection was that around January 25th or 28th, Mr. Shreve asked me to wire the Corporation Commission to know if the name "Arizona Security Building and Loan Association" would be available. I may be mistaken. That may have been Mr. Perkins, but if Mr. Shreve didn't then later he asked me or had somebody ask me to delete the name "Arizona", because I know the Corporation Commission wired me that the name "Arizona Security Building and Loan Association" was available for corporate use, and then later the "Arizona" part of it was stricken out. I am very positive about that but whether Mr. Shreve did it in the first instance, or Mr. Perkins, I would not want to say, because that is pretty near ten years ago. My best memory is Mr. Perkins originally had the name "Arizona Security Building and Loan Association" and Mr. Shreve wanted it "Security Building and Loan Association", but it is my memory that they wanted the "Arizona" out of it, and that is how the name was arrived at. I never knew that Jesse Shreve had purchased the interest of James, Dr. Thomas and Dr. Morris in the Arizona Holding Corporation. I do not think Jesse Shreve had anything to do with the Arizona Holding Corporation while Dr. Thomas, Dr. Morris and Mr. James were officers and directors of that corporation, but I am

(Testimony of E. T. Cusick.)

just guessing, I don't know. In one of these telegrams and probably one of these letters exchanged between me and the Arizona Corporation Commission, I recall requesting release of \$2,500.00 from these impounded funds. Somebody advised me they wanted \$2,500 to fit up the offices of the Arizona Holding Corporation and Security Building and Loan Association. [217] They were all in the same office, and I believe to pay a little or something on expenses. That is my memory. I do not know that salaries or commissions were to be paid out of that fund, in fact, I think the letter states what it was for. I believe I explained to the Commission what it was for. I do not know who asked me to get the release of that \$2,500. I do not know that it was Glen Perkins of John Hobbs. I can't remember who it was. It wasn't my idea; somebody asked me to do it and I wrote to get the release of the funds. At that time I was attorney for the Building and Loan Association. Either somebody or the Arizona Holding Corporation officials requested me to get the release of the \$2,500, because my memory is that the Arizona Holding Corporation had the money on deposit in the bank and that the Arizona Holding Corporation was getting the release of this fund because it was their money.

Redirect Examination

The witness continuing: Jesse Shreve was with me in Phoenix at these conferences held in the Capitol Building, and I believe he acted then as

(Testimony of E. T. Cusick.)

an officer of the Company. I sent the telegram, being Government's Exhibit 59 for identification.

Government's Exhibit 59 was received in evidence.

GOVERNMENT'S EXHIBIT 59,

which is in full substance as follows: Copy of telegram dated March 5, 1929, from E. T. Cusick to J. H. Shreve, Adams Hotel, Phoenix, as follows: "Will meet you Corporation Commission office at one-thirty."

(Government's Exhibit 59 was read to the jury by counsel for the Government.

The witness continuing: To the best of my memory, requests for release of these funds were always made by officers and directors of the corporation. I merely acted in the capacity [218] of attorney to fulfill my duties. I have no knowledge of what the funds were to be used for. My duty merely was to get them released.

Recross Examination

The only way I could tell when Jesse Shreve became connected with either of these corporations as an officer or director would be by looking at the minutes. From my own personal recollection I couldn't give the date. I do not know that he became connected March 11th, 1929. The minutes of the corporation undoubtedly would show, although I wrote very few of them. According to this note the officers of that special meeting of the Arizona Holding Corporation were J. H. Shreve, President, F. O.

(Testimony of E. T. Cusick.)

Knight Vice-President; A. C. Shreve, Vice-President, J. G. Cash, Secretary-Treasurer, W. C. Evans, Director, J. C. Barnes, Director, and E. T. Cusick. That was on March 11th, 1929, and present: Shreve, Cash and Cusick. I don't know whether I was a director at that time. I certainly was at the meeting because I made the notes. Like I explained, Mr. Haskell made an investment in the Arizona Holding Corporation and he was a sick man and he had the stock issued in my name. I had no interest in it. I was representing him but that was unbeknownst to me. He later asked me if it was okay. These other men whom I name were given me as directors, which I put down there. This says I was a director, and has a question mark behind it, because I did not know whether I was or not. I think the minutes will show that. I was for a short time.

Thereupon Government's Exhibit 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10, 15 and 16, were read to the jury by counsel for the Government.

Counsel for the Government also handed to the jury part of Government's Exhibit 33, and thereupon Government's Exhibits 33, 34, 36, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48 and 49 were read to the jury by counsel for the Government. [219]

R. F. WATT,

called as a witness on behalf of the Government, testified:

I reside in San Diego, California, and have lived in San Diego until about September 20th, 1930, with the exception of about a month and a half. From about June 1st, 1930, until some time in the latter part of July, I was in Phoenix and I moved over here about September 20th, 1930, and lived here until about February 8th, 1932.

I worked for the Security Investment Trust, the Arizona Holding Corporation and the Security Building & Loan. I kept the books of the Century Investment Trust and Arizona Holding Corporation and did work for the Security Building and Loan Association also. I am familiar with Government's Exhibit 61 for identification. It was kept in the regular course of business of the Century Investment Trust. It was kept under my supervision. I kept this book during the time I was employed there. The Arizona Holding Corporation and Century Investment Trust had the same offices in the Adams Hotel Building, and the Security Building & Loan also. I am familiar with Government's Exhibit 62 for identification, which is the cash book, the check record and sales record and a part of the insurance record of the Century Investment Trust, kept by me in the regular course of business, when I was employed by the Century Investment Trust. I am familiar with Government's Exhibit 63 for identification, which is the journal of the Century Investment Trust, I will say, on notes receivable, accounts

(Testimony of R. F. Watt.)

receivable, part of the insurance accounts receivable and notes payable. It was kept in the regular course of business by me. I am familiar with Government's Exhibit 64 for identification, which is a book of insurance accounts receivable of the Century Investment Trust. When a policy was made out, the copy of the statement was made out in triplicate; one copy was filed in this book as the accounts receivable. I didn't make out the policies. I was responsible [220] for this record which was kept in the regular course of business of the Century Investment Trust. I am familiar with Government's Exhibit 65 for identification, which is the capital stock journal of the Century Investment Trust. Part of it was kept by me and part of it was kept prior to the time I was in Phoenix. I possibly could identify the handwriting. Part of this writing is Miss E. F. Young's. A part of it I am not familiar with. Miss Young kept the books for the Security Building and Loan Association. I am familiar with Government's Exhibit 66 for identification. It is the stockholders' ledger, preferred stock of the Century Investment Trust. Part of it was kept by me. I made entries in it after I was in Phoenix, from the middle of 1930 on. I am familiar with Government's Exhibit 67 for identification.

Q. Was that kept in the regular course of business of the Century Investment Trust?

Mr. Hardy: We make a formal objection to that question, because the mere fact a book was kept in

(Testimony of R. F. Watt.)

the regular course of business is not sufficient to admit the book in evidence against the defendants.

The Court: Well, we will see. Overruled.

Mr. Hardy: Exception.

The witness continuing: That was kept in the regular course of business of the Century Investment Trust, with the same qualifications as to the previous record, meaning by that a part of it was kept by me. I am familiar with Government's Exhibit 68 for identification, which is the stockholders' ledger, series A preferred stock, Century Investment Trust. That was kept in the regular course of business of the Century Investment Trust, by me, with the same qualifications as to the previous two.

Mr. Hardy: Same objection, your Honor.

The Court: The same ruling.

Mr. Hardy: Exception. [221]

The witness continuing: I also kept the books of the Arizona Holding Corporation. I am familiar with Government's Exhibit 69 for identification, which is the cash received record, check record, journal and general ledger of the Arizona Holding Corporation.

Q. Was that kept in the regular order of business of the Arizona Holding Corporation?

A. Yes, sir.

Mr. Hardy: The same objection.

Mr. Peterson: By you?

The Witness: Yes, sir.

(Testimony of R. F. Watt.)

The Court: The same ruling.

Mr. Hardy: Exception.

The witness continuing: To the best of my knowledge and remembrance, Exhibit 69 was entirely kept by me. The first page is in my handwriting. I am familiar with Government's Exhibit 70 for identification, which is the real estate ledger, stocks and bonds, notes receivable, accounts receivable, notes payable and accounts payable of the Arizona Holding Corporation. That book was kept by me. I think one or two entries have been put in there in some other handwriting. I cannot state as to the date without examining them. I see a credit on an account, in pencil, apparently June 2nd, 1932, which is not in my handwriting. I also see some pencil notations on various pages, but they don't affect the balances of the accounts. Apparently put there by the receiver. I only notice one \$5.00 entry which would affect the business on June 2, 1932, on the account of James Gammell.

Q. That book was kept by you, Mr. Watt?

A. Yes, sir.

Q. In the regular course of business?

A. Yes, sir.

Mr. Hardy: We object, your Honor, as being in the regular course of business, it is insufficient. [222]

The Court: Overruled.

Mr. Hardy: Exception.

The witness continuing: I stated the Security Building and Loan Association had an office in the

(Testimony of R. F. Watt.)

same building with the Arizona Holding Corporation and the Century Investment Trust. I recognize the books of the Security Building and Loan Association. I recognize Government's Exhibit 71 for identification. The first part of it is the general ledger of the Phoenix office. The back part of it, I know what it is but I probably am not competent to identify it. I have seen it before. It is the general ledger of the Tucson office, and also a part of the control sheets, that is, sheets which contain the combined balances of the Phoenix and Tucson offices. Government's Exhibit 72 for identification is the book record and journal entries of the Security Building & Loan Association, Phoenix office. Government's Exhibit 73 for identification is the loan ledger of the Security Building and Loan Association, including both the Phoenix and Tucson loans. Government's Exhibit 74 for identification is daily cash sheets of the Security Building and Loan Association of the Phoenix office. I recognize the signatures on these slips. There are some on the back with no signatures. I recognize the signatures on the ones that are signed. They are signed by E. F. Young and Dorothy Harrison, who were both employees of the Security Building and Loan Association. Government's Exhibit 75 for identification is the minute book, stock journal and stock ledger of the Security Building & Loan. Some of the entries in the books that I have described and identified were made, and some were not, at the times the transac-

(Testimony of R. F. Watt.)

tions took place in the Arizona Holding Corporation and the Century Investment Trust. Some were entered at a later time by me. I do not know that these entries are a correct record of the transactions they record. I have no personal knowledge of them. I mean so far as they were recorded. I had to get my information from various sources as to [223] some entries. They were a correct record according to the information I received.

(Counsel for defendants reserved the right of cross-examination.)

EARL CANNING,

called as a witness on behalf of the Government, testified:

I have resided at Phoenix, Arizona forty-two years and am a Certified Public Accountant. I am familiar with the Arizona Holding Company and was appointed receiver of that company on November 5th, 1932. While I was receiver I had custody of two books of the Arizona Holding Corporation. I had custody of Government's Exhibits 69 and 70 for identification. Those books were received by Walter Wood, my associate, by express from San Diego. Walter Wood died a year ago last July. I turned the books over to Mr. Fierstone, the Government Agent. The only changes that were made in the books were pencil notations of the various accounts as we went over them for our use, and we

(Testimony of Earl Canning.)

did not make any entries in the books. Those were merely auditor's notations. I admit I don't know who sent the books to Phoenix. I was familiar with the Century Investment Trust. I never had any of those books in my custody. Mr. Wood did, in my office. Mr. Wood was my associate. I saw the books of the Century Investment Trust in Mr. Wood's office. They were received at the same time the Arizona Holding books were received. They came by express from San Diego. I turned all the books of the Century Investment Trust over to Mr. Jacobs on November 18th, 1932. I did no work on the books of the Century Investment Trust. Evidently Mr. Wood did that work.

JOHN W. WALKER,

called as a witness on behalf of the Government,
testified:

I live at Tucson, Arizona, and am the private secretary to Judge Albert M. Sames. I do court reporting in the Federal [224] Court in Tucson, and I recall that I reported and made a transcript of the proceedings of this case when it was previously tried in Tucson in the spring of 1934. I transcribed Government's Exhibit 76 for identification, which is the testimony of Walter A. Wood. It is a correct copy of the testimony the witness gave.

Thereupon the witness read the testimony of

WALTER A. WOOD

I live at Phoenix. I am a Certified Public Accountant and have been a practicing public accountant about ten years and have been certified about four months. I had occasion to go to San Diego in October of 1932 to get the books of the Arizona Holding Corporation and the Century Investment Trust. Mr. Jesse Shreve informed me of them. He called me from San Diego on the telephone. There had been a suit for receivership filed against the Arizona Holding Company by a Mr. Carson in Phoenix, and Mr. Shreve had indicated he would not resist this receivership and suggested that Mr. Carson and I come to San Diego and get those books and records of the Arizona Holding Company and the Century Investment Trust. That conversation was approximately the 27th or 28th of October, 1932. I went to San Diego and went to Mr. Shreve's office in the Commonwealth Building; I think 603 or 620, anyway the sixth floor. Mr. Shreve produced the books of both companies and laid them on the desk for me to examine, and I examined them in a cursory manner and talked with him to have them sent back and Mr. Shreve said he would send them back immediately. I remained in San Diego two or three days and made an examination of the books while there. The books were delivered to my office by the American Express Company about the 27th or 38th of October, 1932. The books of the Arizona Holding Corporation, those two binders

(Testimony of Walter A. Wood.)

containing the general ledger and the journal and the details ledger of the Century Investment Trust. There were nine books in all, consisting of stock ledgers, general [225] ledgers and just a maximum of a whole bunch of the general books. At that time I received the envelope containing the securities, such as stocks, notes, mortgages and such things of the Arizona Holding Company. I don't believe there were any papers or vouchers of the Century Investment Trust or other companies. I wrote to Mr. Shreve asking him to send the cancelled checks with the Company's statements, and papers of that kind, but I never received them. I believe I received an answer. I never received any other books or papers of either the Arizona Holding Corporation or the Century Investment Trust from Mr. Shreve. We retained the books until some time in January. I delivered the Century Investment Trust books to Mr. Jacobs who had prior to that time been appointed receiver for the Century Investment Trust, and at a subsequent date I delivered the books of the Arizona Holding Company to Mr. Fierstone. That was in January, 1933, and on January 18th, 1933 the Century Investment Trust books were delivered to Mr. Jacobs, and on January 10th, 1933, or approximately that date, the Arizona Holding Company books were delivered to Mr. Fierstone. On May 6th, 1933, the papers that I spoke of, such as securities, were delivered to Mr. Johnson, who had then been appointed Trustee in Bankruptcy of the

(Testimony of Walter A. Wood.)

Arizona Holding Corporation. No changes or alterations were made in those books while they were in my possession. There were some pencil notations made on some of the record sheets noting the fact that some collections had been made, but no changes in the books at all. I examined the books in the Receiver's office in Phoenix. There were some entries made on the last page in the journal between the time I saw the books in San Diego and when they come to Phoenix. That was the Arizona Holding Company's books, not the Century Investment Trust. The reason I didn't bring the books back with me when I returned from San Diego was that Mr. Carson and myself went to San Diego by airplane and the books were rather bulky, and Mr. Shreve said he would send them to me. I went to San Diego on two earlier occasions, I believe in August. I had intended to get the [226] books but they were not produced at that time. I think they were being checked by another auditor. I saw Mr. J. H. Shreve in San Diego at that time but I did not demand the books at that time. I was in no position to demand the books. The books were laid on the desk in Mr. Shreve's private glassed-in office on the sixth floor, just off the main office of the Guardian Western Company. They were brought in from the main office of the Guardian Western Company to Mr. Shreve's office while I was sitting in Mr. Shreve's private office. Mr. Watt was there in attendance while I was looking at the books.

NERI OSBORNE, JR.,

called as a witness on behalf of the Government, testified:

Direct Examination

I reside in Phoenix. I have resided in Phoenix all my life. I was appointed Receiver of the Security Building and Loan Association by Judge Phelps of the Superior Court of Maricopa County, in the middle of November, 1931. I appointed Mr. Alex Crane as my auditor, and took over the keys and took possession of everything in the office at Phoenix and the next day proceeded to Tucson and did the same thing there. We kept the books in the offices and brought the books from Tucson to Phoenix and kept them in the Adams Hotel where they had their office, until moved them into the Luhrs Building, where they remained until I delivered them to Mr. Ben Dodt, who had succeeded me as Receiver. I think Mr. Crane and Miss Young and Mr. Watt, and Mr. Crane's assistant, Bradfield, did some work on the books. Mr. Watt and Miss Young were familiar with the Association's business and I kept them there until the Court relieved me of the Receivership. Mr. Dodt was appointed Receiver and I turned all the records over to him. I made no changes, or none to my knowledge, or entries, in the books during the time they were in my possession. [227]

Cross Examination

At the time the Court accepted my resignation I took a receipt from Mr. Dodt for all the physical

(Testimony of Neri Osborne, Jr.)

assets. As to individually itemizing the books, I could not say. I might have the receipt in my safety deposit box. I will try to find it. I think I gave a receipt to Dan Shreve when I first took the books. I took over possession of all the physical assets of the Security Building and Loan Association, both in Phoenix and Tucson, when I was appointed Receiver. I took them over from Dan Shreve, and, I think, Glen Perkins. They were in charge of the business and I think I checked out through them. Either Mr. Perkins or Dan Shreve turned the keys over to me, and I am very positive I gave either of those gentlemen a receipt for the books and records. I believe I turned the receipt over to Mr. Dodt. I am very positive I didn't consult with either J. H. Shreve or A. C. Shreve at the time I took over those books and records and documents as Receiver. I had no transactions with them whatever. I think some lady and Mr. Hobbs was in charge of the office at Tucson. I phoned and asked them to remain in charge until I could get there. Mr. Crane and I drove to Tucson and brought the books back with us.

A. W. CRANE,

called as a witness on behalf of the Government,
testified:

I have resided in Phoenix twenty-three years and am a Certified Public Accountant. I recall when Neri Osborne was appointed Receiver of the Se-

(Testimony of A. W. Crane.)

curity Building and Loan Association. I accompanied him to Tucson and to the local office of the Security Building and Loan Association for the purpose of gathering together the assets and books of that corporation. We obtained the books. We received the books, which are Government's Exhibits 71, 72, 73, 74, 75, 77 and 78 for identification. I started an audit of those books the next day after I took possession of them. I later turned the books over to Mr. Osborne in the Luhrs Tower. Later Mr. Osborne turned the books over to Mr. Dodt, who as Receiver had succeeded Mr. Osborne. We made some changes in the contents of the books. Those changes were made after the closing of the Security Building and Loan Association. There were no changes made in the records previous to that time which would affect the books. The only changes that were made were adjusting entries. There were no alterations or changes or erasures made in the original entries.

Cross Examination

There were adjusting closing entries made on the books of the Security Building and Loan Association which Mr. Osborne received as Receiver. The adjusting entries changed the financial set-up of the corporation but there were no changes made in the original entries as they appeared on the books at the time we took them over. The changes which we made did change the financial set-up of the Security Building and Loan Association. The changes were

(Testimony of A. W. Crane.)

made during the progress of the audit. I could not tell you exactly when—the changes were made as of November 16th, 1931. Actual entries were made subsequent to that date, within the following month or so, while we were auditing the books.

Redirect Examination

These changes were made after the Security Building and Loan Association went into the hands of the Receiver. The changes affecting the financial set-up were partly collections in the regular course of business of the receivership. These changes would affect the books, of course. They changed the financial set-up or financial aspect of a concern; they caused an effect on the books as they showed on that date. For instance, certain cash had been collected on the last date which had not been entered in the books at the time we got them, and there were certain cash items that were held by the Security Building & Loan under orders of the Superintendent of Banks that had not been [229] entered. Those items were added to the cash collections and entered in order to show a true picture of the financial status of the concern at that time. The entries which were made were correct and showed the transactions as they transpired.

EDWARD C. JACOBS,

called as a witness on behalf of the Government, testified:

I have resided in Tucson all my life. I resided there a part of the time in 1932 and 1933. I was appointed Receiver for the Century Investment Trust in June, 1932, by Judge Niles, in Phoenix, Arizona. I had in my custody the books of the Century Investment Trust, which I got from Earl Canning. There were nine books. I received them from Mr. Canning in November, 1932 and took them to Tucson and turned them over to Mr. Darrow to have them audited. Mr. Darrow is a local auditor in Tucson. I recovered possession of those books from Mr. Darrow and gave them to Mr. Fierstone, the Government Auditor. I delivered them at the Federal Building in Tucson. I made no alterations or changes in the books while they were in my possession.

RICHARD G. DARROW,

called as a witness on behalf of the Government, testified:

I am an attorney and Certified Public Accountant at Tucson, Arizona. I know Edward C. Jacobs and recall the occasion when he brought to me some books of the Century Investment Trust in 1932, to have me audit them. I had the books, being Government's Exhibits 61, 62, 63, 64, 65, 66, 67 and 68

(Testimony of Richard G. Darrow.)

for identification, and made an audit of those books. I guess you would call it an audit. We did some work on the books so the receiver could find out what he had. These books were brought into my office by Mr. Jacobs around the middle of November, 1932, and we finished our work on them early in December, and then the books were stored in my office until Mr. Jacobs came and got them, either [230] the latter part of January or right around the first of February, 1933. There were no changes made in the books, only identifying marks such as an auditor will make in the nature of check marks. I did not change the contents of the books at all.

Cross Examination

My wife also worked on the books. No one had access to the books besides my wife and myself.

Redirect Examination

The work she did was under my supervision. We did the work together, at the same time.

B. H. DODT,

called as a witness on behalf of the Government,
testified:

I have resided in Phoenix about thirty years. I recall the occasion when I was appointed receiver for the Security Building & Loan Association. Neri

(Testimony of B. H. Dodt.)

Osborne was my predecessor and I received from him books of the company. I got them about December 14th, 1931, and kept them until about February 23rd, 1932. I was told to give them to the Receiver in Bankruptcy, R. E. L. Shepard. I had the book, being Government's Exhibit 77 for identification, in my custody. I did not have Government's Exhibit 75 for identification in my custody. I had Government's Exhibits 74, 73, 72 and 71 for identification in my possession. During that time no changes or alterations were made in those books.

Cross Examination

I received these books from Neri Osborne, my predecessor as receiver of the Security Building & Loan Association. I gave him some form of receipt. I don't know whether they enumerated everything or not. I do not have a copy of the receipt with me. This document is a copy of the Exhibits that I was requested in my summons to bring with me. The books which I have identified are not all the books and records of the Security Building & Loan Association which I received. Others are in my possession in my [231] office. I do not have a list of all those books; I could not testify from memory as to every book. There are some individual ledgers, there is a general ledger I have now that I am using in connection with my receivership. Those were received from Mr. Osborne. For instance, the general ledger, they had some old ac-

(Testimony of B. H. Dodt.)

counts in there. At the time Mr. Osborne took charge, they opened a new set of ledger sheets, and I think after the last audit was made, we opened up another set of ledger sheets. I have not been continuously in possession of those books and records since I received them from Mr. Osborne. Mr. R. E. L. Shepard, as Receiver in Bankruptcy, was in possession of those books. He is the man I turned them over to. From him they went to Mr. McRae, who was Trustee in Bankruptcy of the Security Building & Loan Association. They have been in the Clerk's office of this court. They have been in the court at Tucson, and a good many of the records are in the custody of the Superior Court Clerk of Maricopa County at this time. So far as I know none are in the custody of anybody else. I turned the books over to R. E. L. Shepard as Trustee in Bankruptcy, and he turned them over to Mr. McRae, Trustee in Bankruptcy. Mr. McRae turned what he had to me. The case of the Security Building & Loan Association was tried in this court before Judge Jacobs as to whether the Building & Loan Association was a building and loan association or not. I understood a building and loan association was exempt from bankruptcy proceedings. Judge Jacobs ruled it was not a building and loan association and amenable to the bankruptcy laws. The case was appealed to the United States Circuit Court of Appeals, who reversed the decision, and then Mr. McRae, the Trustee in Bankruptcy, was

(Testimony of B. H. Dodt.)

directed to turn the books back to me. None of these books or records went to San Francisco or Washington that I know of. They were out of my possession from about February 23rd, 1932, to March 3rd, 1934, a little over two years. [232]

R. E. L. SHEPARD,

called as a witness on behalf of the Government, testified:

I reside at Route 7, Phoenix, and resided there in 1932, 1933 and 1934. I recall the occasion when I was appointed Receiver in Bankruptcy in the Federal Court for the Security Building & Loan. I know Ben Dodt and received books from him. They were all books of account of the Security Building & Loan Association and some books and papers that related to other companies, I think the Century Investment Trust and some Holding Company. I don't remember exactly what they were because they were only incidental to what I had charge of. I had the books of the Security Building & Loan Association, I can't tell the exact length of time, but I had them from the time I was appointed until the Court of Appeals ordered them turned back to Mr. Dodt. I know Mr. Schroeder, the Government Agent. I turned the books at one time over to Mr. Schroeder. I personally supervised the loading of them and brought them down to the

(Testimony of R. E. L. Shepard.)

Federal Court House here and took them in and delivered them to Mr. Schroeder, the Government Agent. That was prior to the time I turned them back to Mr. Dodt. At the time I had these books in my possession I did not make any changes or alterations. I supervised the keeping of the books up to date, that is, collections and interest.

Cross Examination

Miss Young made the entries in the books part of the time and then Mrs. Clagget, and then I had Mr. Smith, a Certified Public Accountant, go over them just before I turned them over to see that everything was correct and checked. My best recollection is that there were some records that related to the Century Investment Trust and Arizona Holding Company which I received. I might be mistaken about that but that is my best recollection. I did not have any official relation to either of the last named companies. I cannot answer why I received some records of those companies; they were simply there when I went there—when they [233] were turned over to me by Mr. Dodt. No entries were made upon those records of the Arizona Holding Corporation and the Century Investment Trust by me nor under my supervision, or by my direction or authority. I turned those books over to Mr. Schroeder for the purpose of allowing him to check them on behalf of the United States Government. He did not remove the books from my office or check them in my office. I took

(Testimony of R. E. L. Shepard.)

the books and had a couple of gentlemen come up and carry them down and was with them, and came with them over to this building, and saw that they were delivered to the office in which Mr. Schroeder wanted to work on them. I have no recollection that I included also the records of the Arizona Holding Corporation and the Century Investment Trust. The only thing I can recall is I brought the books relating directly to the Security Building & Loan Association over. There may have been some things that were brought over incidental to them. That I cannot answer because I have no independent recollection at this time. My recollection is that I took a receipt from Mr. Schoeder, but would not be positive. That was my usual way of doing business. I wouldn't know where to look for it. Mr. Schroeder placed the books in the vault in this building, as he and I had agreed on, and I took them from the vault, and my best recollection is that I then took them to the office and turned them back to Mr. Dodt. My recollection is that I did not bring all of the records of the Security Building & Loan Association over to Mr. Schroeder. My best recollection is that I retained one book in which I was keeping up the current business of the company. Mr. Schroeder wanted me to make an audit from these books.

Q. Mr. Shepard, was there any accounting made between you and Mr. Dodt with respect to the funds either of you had received, and in respect to funds either of you had expended in connection with your receiverships? [234]

(Testimony of Leta Fricke.)

Mr. Peterson: We object to that as improper cross examination.

The Court: I don't think it is.

Mr. Hardy: Exception.

LETA FRICKE,

called as a witness on behalf of the Government, testified:

I live at Tucson and have lived there about eight years. I was employed by the Security Building & Loan Association in Tucson in February, 1930, and was employed a little less than two years. I recall the Security Building and Loan Association was closed about November 13th or 14th, 1931. I was bookkeeper and general office clerk, took care of the correspondence, and waited on the counter. I know A. C. Shreve and J. H. Shreve. I was employed by Archie Shreve when I went to work. John Hobbs was also employed there. I did not know J. G. Cash. I kept Government's Exhibit 71 for identification, and I also kept Government's Exhibits 77 and 78 for identification. These books were kept by me as bookkeeper for the Security Building and Loan Association in the regular course of business, and they reflected transactions as they were given to me.

Cross Examination

John Hobbs was in charge of the Tucson office while I was in Tucson. I did not make all the

(Testimony of Leta Fricke.)

entries in Government's Exhibit 71 for identification. I thought it was understood I kept only the Tucson part of that one. Government's Exhibit 71 for identification evidently has been combined with some of the records of the Phoenix office. This part in the back marked "Tucson" is the part I kept. There are a few entries in all three of the books after the Building and Loan closed on the 13th of November, that are not in my handwriting and that I did not make. Mr. Hobbs may have made a few entries in this book from time to time but they would be in his handwriting. Practically [235] all of it is in my handwriting. A few entries may have been made by John Hobbs from time to time.

Q. And those which you made, Mrs. Fricke, at whose direction were they made?

A. Mr. Hobbs was my immediate superior. He was in charge of the Tucson office.

The witness continuing: I believe I made all the entries in Government's Exhibits 77 and 78 for identification, unless there should be a few that were made by Mr. Hobbs. Government's Exhibit 78 for identification is the general ledger of the Security Building and Loan Association. That was kept in the Tucson office. However, it is the combined record of the Tucson and Phoenix offices. That is all my handwriting with the exception of a few entries made after the Building and Loan closed. Government's Exhibit 77 for identification is the control ledger of the Security Building and Loan

(Testimony of Leta Fricke.)

Association which we kept at the Tucson office. Practically all the entries in that ledger were made by me. There are a few not made by me. I did not know by whom those were made, that is, I refer now to those that were made after the closing of the Building and Loan. For instance, here is one item, November 16th, 1931. It is headed "Cash Items". I didn't make any of those entries. They were made after the Building and Loan Association had closed. Before that date all the entries were made by me personally. I don't think anyone else made any of those entries. To the best of my knowledge they are original entries. Each day we received a report from the Phoenix office which was our authority for making the entries for the Phoenix office, and, of course, the entries that were made there in Tucson were copied from our own records there in the office. The entries which were made in these books were a part of the entries from the Tucson office and a part of the entries from the Phoenix office. The entries made in these books relating to the business of the Tucson office are from information which I [236] received there, and the entries made in these books relating to business of the Phoenix office were made from information I received by mail from the Phoenix office. I do not know the exact form in which these reports were sent down. Mr. Watt was the bookkeeper there. I presume they were sent by him or Miss Young. I do not remember the exact form in which they

(Testimony of Leta Fricke.)

came. I accepted those entries as they were received, and posted them on these books. I do not know whether Mr. Cash made any entries in any of these books. I remember hearing that Mr. Cash had been associated with the Shreves in the beginning of the Association, but as far as I recall, from the time I came in in February, 1930, Mr. Cash took no active part in its affairs whatever. I am quite sure that he made no entries in either of these books about which I have testified.

Redirect Examination

I kept a portion or parts of the book which is Government's Exhibit 73 for identification. This book contains a record of the loans we had on record at the Tucson office, and records of the Phoenix office. They seem to have been combined in one book. I kept the part of that book pertaining to the Tucson loans. Those portions of the book referring to the Tucson office were kept in the regular course of business and reflect the transactions as given to me.

Recross Examination

Government's Exhibit 73 for identification is a loan ledger and reflects the loans of the Security Building and Loan Association as recorded by me in this book. Somebody else made entries in this book beside myself. I think Mr. Hobbs made quite a few of the entries pertaining to Tucson, and, of course, someone else made entries pertaining to

(Testimony of Leta Fricke.)

loans made in the Phoenix office. This is a combination ledger of the loans made in the Phoenix office and the Tucson office. I know nothing about the entries here pertaining to the Phoenix office. Those were entered in [237] Phoenix. Those pertaining to loans in the Tucson office were made by John Hobbs and myself. It was usually firsthand information, because in most cases people coming to the counter to make their payments on the loans, and I would very often accept the payment and enter it in the loan record. I think it was in February, 1930, I went to work for the Security Building and Loan Association. You are looking at an entry in Government's Exhibit 73, which was kept in the Phoenix office, I believe. I think the Tucson and Phoenix loans are separated. Loan No. 1 of the Tucson office, it says, "Date of Loan, May 23rd, 1928", and commenced February 23rd, 1929, with first interest payment April 19th, 1929, is not in my handwriting and refers to a date before I went to work. From the time I started to work I made most of the entries, with the exception of the few that Mr. Hobbs made. I do not know who made that entry and don't know whose handwriting that is.

E. F. YOUNG,

called as a witness on behalf of the Government, testified:

I reside at Scottsdale and was residing in Phoenix during the years 1929, 1930 and 1931. I was employed by the Security Building and Loan Association during 1930 and a part of 1931. As I remember it, I went to work January 4th, 1930, as a teller in the Security Building and Loan Association. I kept the daily record of the Security Building and Loan Association, the teller sheets, the journal and the ledger. I kept Government's Exhibit 74 for identification, which is called the daily cash sheets. I kept those sheets which I signed. I didn't keep those, (referring to certain documents). There were others that worked on them. I don't know Miss Harrington but I do know a girl by the name of Miss Harrison. I would not undertake to identify her signature. I know Mrs. Harrison worked there during a period of time that I was not there. The first part of Government's Exhibit 72 for identification was kept in the Phoenix office. I worked on [238] these. Of course, some of the sheets I did not keep. There are many entries in here that I made. There are some I did not make. There would be some days during 1930, in the period of about two months I was not there, and during the period I was not there I would not be definite about the entries. Mrs. Dorothy Harrison took my place while I was out. Many of these entries are mine. The greater portion of them are

(Testimony of E. F. Young.)

mine. I did not open the books, however. I kept a portion of Government's Exhibit 73 for identification. My recollection is that I had nothing to do with the entries of the Tucson office. I did keep the Phoenix entries. I worked on those books. I did not probably make all the Phoenix entries, but I did work on those books. During the time I was there I made the greater portion of them. I kept part of that book, being Government's Exhibit 71 for identification, and made the entries therein. There are pages marked "Tucson" which I had nothing to do with. All I had was merely the Phoenix office, and a large number of the entries were made by me, but not the control accounts. I presume the control accounts were made in the Tucson office. I didn't have them. I don't know as to that. All the books of the Security Building and Loan Association upon which I worked, and the entries made, were made in the regular course of business and reflected in the books the correct information as given to me.

Cross Examination

I said "reflected the information as given to me." The entries in those books were made from information given to me by someone else or coming over the counter in the daily business. I don't remember about information given to me, but in the daily business there were various transactions which went into the records and which I posted into the records. That came from information given me by someone

(Testimony of E. F. Young.)

else. These entries happened about eight years ago, but in the daily business as the information came in, it was the daily records which I posted. I posted the daily [239] records as the transactions went through the office. I merely kept the Phoenix office books and don't remember about anything outside. There were other people connected with the organization beside myself. I presume they gave the information which I entered in these books because they were transactions that I didn't handle. I merely waited on the counter and the depositors. I accepted the money and the payments. There were a number of different records in these books which I did not personally handle. I am quite sure there are many. I don't know whether Government's Exhibit 74 for identification, which is the daily cash sheets, refers only to the Phoenix office or both the Phoenix and Tucson offices. I hardly think there are any Tucson transactions. There are some sheets that do not contain my signature; no doubt I didn't make those sheets. There is a signature of a young woman who was in the office while I was absent and who assisted me when I was there, and that was Mrs. Dorothy Harrison. Referring to Government's Exhibit 106 for identification, as I remember it, the teller sheets were not always made up by me, but before I signed them I checked the information. It is my recollection that these sheets were not all made by me. A part of them were made by other persons and I signed them after checking them.

(Testimony of E. F. Young.)

Eight years is a long time. These sheets here were made up from other entries. I think these are summaries of other records. Yes, they were made from other records. Some of those other records, I presume I made, some were not. I was not alone in handling them. Mrs. Goudy was in the office. I don't remember whether she worked on the books or not. Mrs. Harrington was not there while I was. She may have been there at another time. I kept a portion of the Phoenix office records, which is Government's Exhibit 72 for identification, being the general journal of the Building and Loan Association. I don't know by whom else those entries were made. These particular sheets which I am looking at are in my own handwriting. I do not believe this part of the book which pertains to the Phoenix office was opened by me. As I stated [240] before, most of the books I did not open. I do not know who opened these books. It was done before I came into the office. I stated that Government's Exhibit 71 for identification, which is the journal ledger of the Security Building and Loan Association, contains the records of both the Phoenix and Tucson offices. That portion of this record pertaining to the Phoenix office was not kept solely by me. Entries in that portion of it were made by persons other than myself. This ledger was not opened by me and I do not know by whom it was opened. It was opened prior to the time I started to work for the Security Building and Loan Association, be-

(Testimony of E. F. Young.)

cause the book was given to me. I do not know who made entries in this book other than myself pertaining to the business of the Phoenix office. There were a number of people in the office. If you asked me if it was mine, I could tell you, but as to the rest of them, I can't be certain. The opening entries on that page were made by others than myself. The identification, I would say, was by the heading, "Investment Certificates, Pass-Book Shares." I didn't make these entries. I made many of them. Some of them I did not. Some of them I did. I made the first entries on Sheet No. 4 of the Investment Certificates, Pass-Book Shares. Then I was absent from the office during this period of time and that is not my handwriting. I did make a portion of Sheet No. 5, Investment Certificates, Pass-book Shares, Government's Exhibit 71 for identification. I didn't make the first one. I don't believe I made all the entries on the following page designated "Account 6, Investment Certificates, Pass-books". I didn't make the heading. Some of the first entries below the heading I do not recognize as mine; I am sure they were not; they were made by someone else. I made the entries on the following page designated as "Sheet No. 7, Investment Certificates, Pass-books". A large part of the entries on Sheet No. 1 designated "Investment Certificates, Pass-book Shares", beginning January 1st, 1931, were made by me. Some of them were [241] not. I believe they are all mine on that sheet. There

(Testimony of E. F. Young.)

are entries not made by me in that book which is Government's Exhibit 71 for Identification, so far as it pertains to the business of the Phoenix office of the Security Building and Loan Association. I received the information in the office for the entries which were made in that book by me. All of the books which have been shown to me are books of the Security Building and Loan Association. I definitely recognize those that I can. I recognize portions of them I had anything to do with as books of the Building and Loan Association. I recognize that part that pertains to the Phoenix office as books of the Security Building and Loan Association. I had nothing to do with the other office.

C. K. FIERSTONE,

called as a witness on behalf of the Government, testified:

I reside in Los Angeles and am Special Agent, Federal Bureau of Investigation, and do accounting work. I have been with the Federal Bureau of Investigation between six and seven years, doing accounting work. Before that time I did work for certified public accountants and auditors, and received my education in Washington, D. C. I recognize the book, being Government's Exhibit 70 for identification. It is one of the books of the Arizona Holding Corporation. Government's Exhibit 69 for

(Testimony of C. K. Fierstone.)

identification is another book of the Arizona Holding Corporation. I first saw those books in January, 1933. I received just these two books from Earl Canning. I have seen Government's Exhibit 61 for identification before, which is the general ledger of the Century Investment Trust; also Government's Exhibit 62 for identification before, which is the cash book and sales record of the Century Investment Trust; also Government's Exhibit 63 for identification before, which is a book of the journal vouchers and subsidiary accounts of the Century Investment Trust; also Government's Exhibit 64 for identification, which is the book of accounts [242] receivable of the Century Investment Trust; also Government's Exhibit 65 for identification before, which is the capital stock journal of the Century Investment Trust; also Government's Exhibit 66 for identification before, which is the stockholders ledger of preferred stock of the Century Investment Trust; also Government's Exhibit 67 for identification before, which is the stockholders ledger of common stock of the Century Investment Trust; also Government's Exhibit 68 for identification before, which is stockholders ledger of Series A stock of the Century Investment Trust. I had these books in my possession for the purpose of making an audit. I received Government's Exhibits 61 to 68 for identification, inclusive, being books of the Century Investment Trust, from Edwin Jacobs in Tucson in January, 1933. I have seen Government's

(Testimony of C. K. Fierstone.)

Exhibit 71 for identification before, which is the general ledger of the Security Building and Loan Association; also Government's Exhibit 72 for identification before, which is the general journal of the Security Building and Loan Association; also Government's Exhibit 73 for identification before, which is the loan ledger of the Security Building and Loan Association; also Government's Exhibit 74 for identification before, which is the book of daily cash sheets of the Security Building and Loan Association; also Government's Exhibit 75 for identification before, which is the minute book of the Security Building and Loan Association; also Government's Exhibit 77 for identification before, which is a journal ledger of the Security Building and Loan Association; also Government's Exhibit 78 for identification before, which is a general journal, cash book and a general journal of the Security Building and Loan Association. I made an audit of the books of the Arizona Holding Company and the Century Investment Trust and the Security Building and Loan Association in 1933. I had the books of the Arizona Holding Corporation and the Century Investment Trust. I have seen these books recently. At the time I made an audit of the books I made working papers. Since my return I have checked [243] these books with my working papers and they are in the same condition as they were at the time I made my audit in 1933. That check was made during the past two or three weeks, at

(Testimony of C. K. Fierstone.)

the time I appeared here when this case was set and during the progress of this trial. My examination went up to the closing of each of the three companies and my audit was formally based upon that.

B. H. DODT,

recalled as a witness on behalf of the Government, testified:

I was appointed Receiver of the Security Building and Loan Association, and am now. The checks which are Government's Exhibits 79 and 80 for identification came into my hands as Receiver as a part of the records.

HAROLD O. SCHROEDER,

called as a witness on behalf of the Government, testified:

I reside in New York City and am a Special Agent, Federal Bureau of Investigation, doing accounting work. I have seen Government's Exhibit 71 for identification, being a general ledger of the Security Building and Loan Association, and also Government's Exhibits 73, 74, 77 and 78 for identification. I received these books from R. E. L. Shepard, and afterwards audited them. Since the previous trial I have made a check of the books

(Testimony of Harold O. Schroeder.)
and my working papers on the audit I made between June and August, 1932. The check of the books was made within the last five days. Those books are in the same condition as they were when I made my previous audit.

LETA FRICKE,

recalled as a witness on behalf of the Government, testified:

I stated I was an employee of the Security Building and Loan Association at Tucson commencing in February, 1930. I made daily reports. One was sent to San Diego, 546 B Street, and one [244] was sent to Phoenix each day. I don't recall how the envelopes were addressed. I remember we had envelopes already addressed, and we simply inserted the report and sent it. Of course, we knew it went direct to Mr. Jesse Shreve. (Upon motion the last sentence of the foregoing answer was stricken by the Court.) Mr. Jesse Shreve requested that those reports be sent over there. We made them up until the day the Association was closed.

Recross Examination

Those reports were sent from the Tucson office. Three were made, one for ourselves, one went to San Diego and one went to Phoenix each day. I do not recall that those reports were being sent when I became connected with the office, but I know to the best of my knowledge and belief we started sending

(Testimony of Leta Fricke.)

them from the time I started working. I don't recall whether they had been sent or not. There had not been a girl in the office before I was hired. I think Mr. Hobbs had been doing all the work himself before I went in. I think those reports were sent to 546 B Street, San Diego, California. As I recall, we used printed envelopes. They were not mailed to J. G. Cash at 546 B Street, San Diego, California. I don't recall how the envelopes were addressed. They were not addressed to 620 Commonwealth Building but 546 B Street. It was a combined report of the daily transactions of the Tucson and Phoenix offices. Mr. Hobbs gave me instructions to mail those reports.

WILLIAM V. TROTT,

called as a witness on behalf of the Government, testified:

I reside at 541 South Fremont, Los Angeles, California. I was employed by the First National Bank of Prescott during December, 1928 and June, 1932, as teller. W. C. Evans was in charge of the bank as cashier while I was there. Government's Exhibit 81 for identification is a part of the records of the First National Bank at Prescott, kept during the time I was employed there. That [245] record covers entries on the certificates of deposits that were entered in the general ledger for various days. I

(Testimony of William V. Trott.)

made all four of those entries on this one page of the exhibit, which have this red cross-mark for identification opposite it. Those entries were a correct record of the transactions which they purport to record.

Cross Examination

I did not make all of the entries on this exhibit. I made the four entries that are referred to there with the "X" mark. Those entries are in my own handwriting. I was teller and kept the general books. The first entry with the cross-mark which I made was March 8, 1929. The word immediately after is "Shreve", not designating any particular Shreve.

Government's Exhibit 81 for identification was received in evidence, and the United States Attorney read lines 10, 12, 13 and 14 thereof, as follows:

GOVERNMENTS' EXHIBIT 81,

which, abstracted to the issue, is in full substance as follows: General Ledger Account of First National Bank of Prescott, marked C.D.Time, disclosing various amounts brought forward beginning December 22, 1928 to July 20, 1931; the following entries identified and referred to in the testimony of Government's witness William V. Trott:

Date	Description	References	Charges	Credits	Balance
3-8-28	Shreves 15-14		20,000		39,400
3-25-28	The Treas. of Ariz. 16	4%	10,000		
3-25-28	The Treas. of Ariz. 17		10,000		
3-25-28	The Treas. of Ariz. 18		10,000		69,600

(Testimony of William V. Trott.)

Government's Exhibit 82 for identification was received in evidence, and the United States Attorney read lines 14, 15, 16, 17, 18 and 19 thereof, as follows: [246]

GOVERNMENT'S EXHIBIT 82,

which, abstracted to the issue, is in full substance as follows: Record of certificates of deposit issued by First National Bank of Prescott, lines 14, 15, 16, 17, 18 and 19, testified to by Government's witness William V. Trott, which are as follows:

Date Issued	To Whom Issued	Deposited by	No.	Amount	Daily Totals	Time	Rate	Date Paid
Mar. 8, '29	Treas. of St. of Ariz.	Self	14	10,000		9-7-29	4	9-23-29
Same	Same	Same	15	10,000	20,000	Same	4	Same
Same	Same	Same	16	10,000		Same	4	Same
Same	Same	Same	17	10,000		Same	4	Same
Same	Same	Same	18	10,000	30,000	Same	4	10-9-29

The witness continuing: Government's Exhibit 82 for identification is a record of the First National Bank in Prescott, during the time I was employed there, and also covers the record of certificates of deposit. The entries in lines under the number column, being numbered 14, 15, 16, 17, 18 and 19, I believe, were made by Mr. Faulkner. They are not my entries. He was also a teller. Government's Exhibit 83 for identification is a part of the record of the First National Bank in Prescott covering the period of time when I was employed there. It covers the other bonds and securities purchased and

(Testimony of William V. Trott.)

sold during that time. The items in this certificate which have a red check mark opposite are entries made by me as an employee in the regular order of business at the bank, in the keeping of records, and they are correct records of the transactions which they purport to record.

Mr. Hardy: I personally made all the entries marked with a red cross-mark on Exhibit 83 for identification. This is a record of the First National Bank of Prescott and I was teller at the time I made this record. I don't believe Jesse Shreve or Archie Shreve were directors or officers of that banking institution.

Mr. Hardy: We object to the introduction of [247] the items marked upon this exhibit, for the reason that no proper foundation has been laid for their admission against these defendants; that they are hearsay as to them, and they are incompetent, irrelevant and immaterial.

The Court: Overruled.

Mr. Hardy: Exception.

Thereupon lines 5, 6, 7, 8 and 9 of Government's Exhibit 83 were received in evidence, which the United States Attorney read to the jury, as follows:

GOVERNMENT'S EXHIBIT 83,

which is in full substance as follows: "Now reading from Government's Exhibit 83 the items which have been identified by the witness and admitted in evidence, being the first five items which had a red

(Testimony of William V. Trott.)

check mark opposite them, and they commence with the fifth entry on the page, the first item, and under the date line, 1930—the first item is May 28th, 1930, investment certificates, Security Building & Loan Association No. “A”, reference 101, charge, \$1,000.00. Second item, same date, same description, investment certificate, Security Building & Loan Association, 102, reference, charge \$2,500.00. The Third item, May 28th, 1930, investment certificate, Security Building & Loan Association 103, charge \$2,500.00. The fourth item, May 28th, 1930, investment certificate, Security Building & Loan Association reference 104, \$2,500.00. The fifth item, May 28th, 1930, investment certificate, Security Building & Loan Association reference 105, charge \$2,500.00.”

The witness continuing on direct examination: I made all the entries on Government’s Exhibit 84 for identification, under the column headed “Friday, November 8th, 1929”. This is another record of the First National Bank in Prescott which was kept during the time I was employed there as one of their accountants. It is a [248] daily statement that I kept at that time. The first column, where it says “Resources” has reference to this column which I have identified under the heading “Friday, and entries in that column under the heading of “Friday” on each line, refers to the name opposite under the column “Resources”, and those items in this Resource column were in there at the time

(Testimony of William V. Trott.)

these entries were made by me. Those entries are a corret record of the transactions from the record which they purport to record.

Mr. Flynn: We offer in evidence a part of Government's Exhibit 84, consisting of the first column, which is headed "Resources", and the column headed "Friday, November 8th, 1929."

Mr. Hardy: Mr. Flynn, do you offer everything under the column here marked "Friday, November 8th, 1929"?

Mr. Flynn: Yes, sir.

Mr. Hardy: And you offer everything under the column marked "Resources" on the same page?

Mr. Flynn: That is right.

Mr. Hardy: That is to say, the items referring to the Chase National Bank of New York and the Western National Bank of Los Angeles, and safety deposit rentals and items of that kind; Postal Savings and over and short?

Mr. Flynn: Well, the entire item offered in evidence is one complete record, and it is possible that some of those figures and items in there are not—without them we would not have a complete picture of this exhibit. That is the only reason they are put in there.

Mr. Hardy: (on voir dire examination) I made all the items on this page of the exhibit. They were transcriptions of the general ledger entries covering that day's business, November 8th. [249] This page on this exhibit does not contain the first and origi-

(Testimony of William V. Trott.)

nal entry of the transaction. The original entries are in the general ledger. This is a transcription of the day's business. It is a transcription of the general ledger, the items transferred from the general ledger to the daily statement, in order to get a picture of the day's business of the bank condensed. Neither J. H. Shreve nor A. C. Shreve supervised or requested me, or required me to make any of the entries on this page of the exhibit. I don't remember whether they had any connection with the First National Bank at Prescott at that time or not. There was no connection with them on my making those entries at that time. It was a part of my duty at the bank on that particular day. I cannot remember that J. H. Shreve and A. C. Shreve were officers or directors of the First National Bank in Prescott at that time.

Mr. Hardy: Your Honor, we object to the introduction of this exhibit, for the reason that it is apparent therefrom that some of the items on the pages offered would not be admissible against the defendants in this case, and for the reason no proper foundation has been laid for the admission of the offered exhibit, and for the second reason, it appears from the witness himself that they are not the first or original or primary documents or information from which the entries are made. The witness himself has said they are transcribed entries.

The Court: It may be received.

Mr. Hardy: Exception.

(Testimony of William V. Trott.)

Government's Exhibit 84 was received in evidence.

GOVERNMENT'S EXHIBIT 84,

being the first column thereof entitled "Resources", and the column headed "Friday, Nov. 8, 1929", which are in full substance as follows: [250]

RESOURCES	FRIDAY, Nov. 8, 1929.
Loans & Discounts	\$ 315,355.34
U. S. Gov't Securities	149,880.71
Other Bonds, Stocks, etc.	60,342.70
Leasehold Improvements	3,677.36
Furniture & Fixtures	3,314.86
Interest Paid	2,235.48
Expense General	9,555.32
Suspense	134.44
Stationery and Supplies	2,405.93
Federal Res. Bank, L. A.	28,197.27
Chase Natl. Bank, N. Y.	21,369.58
Western Nat. Bank, L. A.	9,012.30
Boatmens Nat'l Bank, St. Louis	8,970.36
Pacific Nat. Bank, S. F.	3,662.35
1st Nat. Bk. Ariz., Phoenix	831.06
Com'l Nat. Bk. Phoenix	8,471.00
El Paso N/B, El Paso	1,673.89
Transit—Cash Col's	1,186.13
Exchange Maturing	20,000.00
Over & Short	29.90
Cash on Hand	20,715.21
Gold Bullion	781.40
	<hr/>
	\$ 678,163.34

(Testimony of William V. Trott.)

LIABILITIES	
Capital Stock	\$ 100,000.00
Surplus	25,000.00
Undivided Profits	6,554.04 (red)
Interest Received	9,816.22
Exchange	157.55
Safe Dep. Rentals	134.00
Escrow Fees	28.00
Other Earnings	6.75
Certified checks	—
Cashiers checks	8,549.39
Cashiers vouchers	—
Demand Deposits, Com'l	288,765.23
Demand Certified Dep.	—
Time Deposit Savings	125,448.61
Time Cert.—Dep.	18,220.00
Time Pub. Funds	75,000.00
Postal Savings	27,037.59
	<hr/>
	\$ 678,163.34

Mr. Hardy: Your Honor, may we please have the same objection to Government's Exhibits 81, 82, 83 and 84 which we made to the last exhibit?

The Court: You made an objection to the other exhibits?

Mr. Hardy: Yes. May we amplify the objection as given to the last one? [251]

The Court: All right.

Mr. Hardy: Exception.

Cross Examination

The entries on Government's Exhibits 81 and 83 are original entries. They were supplied to me by Mr. Evans, cashier at that time. Upon information which Mr. Evans gave me I recorded the transac-

(Testimony of William V. Trott.)

tions appearing upon Government's Exhibit 81 and 83, merely as an employee of the bank, as part of my duties.

Mr. Hardy: Now, your Honor, we move that Exhibits 81 and 83 be stricken, for the reason that they appear to be transcribed records from information given to the witness by the cashier of the bank, and on the grounds no proper foundation has been laid for the admission of the documents.

The Court: Motion denied.

Mr. Hardy: Exception.

The witness continuing: Neither J. H. Shreve nor A. C. Shreve authorized me to make any entries, or supervised any of the entries with reference to all of the exhibits about which I have testified. As far as I know they did not have any knowledge of the entries at the time they were made.

W. C. EVANS,

called as a witness on behalf of the Government, testified:

I reside in Fresno, California. I was residing in Prescott part of the time the First National Bank was in operation there, and from some time in December, 1928, until the latter part of 1930. I was cashier and director of the bank. Those are my signature on Government's Exhibits 85 to 89, inclusive, for identification. They are signed by me as

(Testimony of W. C. Evans.)

cashier of the First National Bank in Prescott, on or about the date these instruments bear. Since I have been here I have seen the record of the [252] certificate of deposit register in which the certificates of deposit were entered. Lines 14 to 19 inclusive on Government's Exhibit 82 for identification is a record of the First National Bank at Prescott recording the certificates. I think the record is in the handwriting of W. V. Trott who was teller of the bank at that time. I recall the transaction in which these were issued and at whose request a number of these certificates were issued by me as cashier of the bank. In the early part of March, 1929, Mr. Henry F. Brewer and Louis T. Beach, who had been interested in the organization of the First National Bank in Prescott, were interested in the organization of the Security Building and Loan Association. During the time that Mr. Brewer was interested in the organization of the Bank there had been a depository bond executed by I think it was the Fidelity and Deposit Company of Maryland to the State of Arizona, in the amount of \$50,000, to secure public funds that might be deposited with the Bank, Mr. Brewer stated to me that the Security Building and Loan Association was in the process of organization, and if organized, there would be \$50,000 deposited with the State Treasurer, and the First National Bank in Prescott, having been qualified as the State Depository for funds to that extent, should receive that \$50,000. I

(Testimony of W. C. Evans.)

came to Phoenix at Mr. Brewer's request some time about, I'd say around the 5th of March, prior to the time these certificates of deposit were issued. I don't know just the time, but some two or three or four days before that took place, and went with Mr. Brewer to the State Treasurer's office and the matter of the deposit was discussed at the State Treasurer's office, and it was arranged that in the event that the money be deposited with the Bank, which, at that time the State Treasurer could give no assurance, but it was suggested that in the event that the Bank received the deposit, that it be evidenced by certificates of deposit issued in denominations of not more than \$10,000, and the State Treasurer's office informed me that they knew of no reason why, at that time, [253] that the Bank should not receive the \$50,000 if the Articles of Incorporation of the Security Building and Loan Association were filed and a permit issued. After my return to Prescott, Mr. Brewer notified me that the organizers would be here at some particular time, and I think about the date on which those deposits, the certificates were dated. I won't be sure about the date, but it was somewhere about the 7th or 8th of March, 1929, and in view of the understanding up to that time, I went to the Bank early that morning and issued the certificates of deposit which you have in your hand. These certificates of deposit were the legally required deposit for the Security Building and Loan Association to commence business.

(Testimony of W. C. Evans.)

Government's Exhibits 85, 86, 87, 88 and 89 were received in evidence and read to the jury by the United States Attorney.

GOVERNMENT'S EXHIBIT 85,

which, abstracted to the issue, is in full substance as follows: Time Certificate of Deposit No. 14, issued by First National Bank, Prescott, Arizona, March 7, 1929, to the Treasurer of the State of Arizona, for \$10,000, payable to the order of himself, six months after date, upon return of certificate properly endorsed, with interest at 4% per annum; signed W. C. Evans, Cashier; Endorsed Chas. R. Price, State Treas. by Howard J. Smith, Deputy. Credited to a/c Security B & L Assn., Tucson.

GOVERNMENT'S EXHIBIT 86,

which, abstracted to the issue, is in full substance as follows: Time Certificate of Deopsit No. 15, issued by First National Bank, Prescott, Arizona, March 7, 1929, to the Treasurer of the State of Arizona, for \$10,000, payable to the order of himself, six months after date, upon return of certificate properly endorsed, with interest at 4% per annum; signed W. C. Evans, Cashier; Endorsed Pay to the order of the Security Building & Loan Association, [254] Tucson, Arizona, Chas. R. Price, Treas. of the State of Arizona, by Howard J. Smith, Deputy. For deposit with First National Bank,

(Testimony of W. C. Evans.)

Prescott, Arizona, Security Building & Loan Association by A. C. Shreve, V-Pres.

GOVERNMENT'S EXHIBIT 87,

which, abstracted to the issue, is in full substance as follows: Time Certificate of Deposit No. 16, issued by First National Bank, Prescott, Arizona, March 7, 1929, to the Treasurer of the State of Arizona, for \$10,000, payable to the order of himself, six months after date, upon return of certificate properly endorsed, with interest at 4% per annum; signed W. C. Evans, Cashier; Endorsed Pay to the order of the Security Building & Loan Association, Tucson, Arizona, Chas. R. Price, Treas. of the State of Arizona, by Howard J. Smith, Deputy. For deposit with First National Bank, Prescott, Arizona, Security Building & Loan Association by A. C. Shreve, V-Pres.

GOVERNMENT'S EXHIBIT 88,

which, abstracted to the issue, is in full substance as follows: Time Certificate of Deposit No. 17, issued by First National Bank, Prescott, Arizona, March 7, 1929, to the Treasurer of the State of Arizona, for \$10,000, payable to the order of himself, six months after date, upon return of certificate properly endorsed, with interest at 4% per annum; signed W. C. Evans, Cashier; Endorsed Pay to the order of the Security Building & Loan Association, Tucson, Arizona, Chas. R. Price, Treas.

(Testimony of W. C. Evans.)
of the State of Arizona, by Howard J. Smith,
Deputy. For deposit with First National Bank,
Prescott, Arizona. Security Building & Loan Asso-
ciation by A. C. Shreve, V-Pres.

GOVERNMENT'S EXHIBIT 89,

which, abstracted to the issue, is in full substance as follows: [255] Time Certificate of Deposit No. 18, issued by First National Bank, Prescott, Arizona, March 7, 1929, to the Treasurer of the State of Arizona, for \$10,000, payable to the order of himself, six months after date, upon return of certificate properly endorsed, with interest at 4% per annum; signed W. C. Evans, Cashier; Endorsed Pay to the order of the Security Building & Loan Association, Tucson, Arizona, Chas. R. Price, Treas. of the State of Arizona, by Howard J. Smith, Deputy. For deposit with First National Bank, Prescott, Arizona. Security Building & Loan Association by A. C. Shreve, V-Pres.

The witness continuing: The payment for the certificates of deposit was delivered to me by Mr. Brewer. There was a check for \$20,000 and some notes accepted subject to the approval of the Board of Directors of the Bank. I know that Government's Exhibit 90 for identification was the form of record that was used by the bank in its collection of items. I have some recollection in regard to the fourth item. That entry is a correct record of the transaction which it purports to record.

(Testimony of W. C. Evans.)

Item No. 4 of Government's Exhibit 90 for identification was offered in evidence by the United States Attorney.

Mr. Hardy: (on voir dire examination) I did not make the entry referred to on this exhibit. It is not the first original entry of the transaction. As I stated, it is only the record of items. I believe we refer to it in the letter as cash collection, a letter containing items sent to other banks for collection and credit. There are other records with respect to this transaction.

Mr. Hardy: We object to its admission, upon the grounds it has not been properly identified, no foundation has been as yet laid by this witness, or any other witness, for its admission, and for the further reason that it is not the first permanent entry of the transaction, and it is hearsay as to [256] these defendants.

The Court: It may be received.

Mr. Hardy: Exception.

Thereupon Item No. 4 of Government's Exhibit 90 was read to the jury by the United States Attorney.

GOVERNMENT'S EXHIBIT 90,

being Item No. 4 thereof, which, abstracted to the issue, is in full substance as follows: Record—letter of First National Bank of Prescott, dated March 8, 1929, addressed to First National Bank of Phoenix, Arizona, enclosing collections and credit items,

(Testimony of W. C. Evans.)

which includes an item dated March 7, 1929, No. 38, Maker Arizona Holding Corporation, payor, 91-11, amount \$20,000; last endorser Us.

The witness continuing on direct examination: Government's Exhibit 91 for identification is in my handwriting. I made those entries as a part of my duties as cashier of the First National Bank, and as a part of the records of that company. These entries, which are the five certificates of deposit, have a connection with the item about which I have just testified. This entry is a posting entry for the three notes which I have testified is a part of the source of the deposits. The proceeds from these notes is a loan from the bank to the makers whose names appear on this entry. The proceeds from those notes were then deposited in my bank to the credit of the Treasurer of the State of Arizona, and that accounts for three of those C. D.'s which are in evidence.

Mr. Flynn: We offer those in evidence.

Mr. Hardy: Object to it, no proper foundation has been laid for the admission of Government's Exhibit 91 for identification.

The Court: It may be received.

Mr. Hardy: Exception, please.

Government's Exhibit 91 was received in evidence. [257]

GOVERNMENT'S EXHIBIT 91,

which is in full substance as follows: Debit Loans No. 127 J. E. Shreve \$10,000, No. 128 Glen O.

(Testimony of W. C. Evans.)

Perkins \$10,000, No. 129 J. G. Cash \$10,000—Total \$30,000. 3/25/29 (See Entry Nov. 25/29) (W. V. T. 91-37).

The witness continuing: The numbers on the left of Exhibit 91 refer to the loan number, and refers to the name of the party to whom the loan was made, and the amount.

(Government's Exhibit 91 was read to the jury by the United States Attorney.)

The witness continuing: The J. E. Shreve mentioned in this debit memo is not the defendant Jesse Shreve but is Joseph E. Shreve. The Glen Perkins is the Glen Perkins who is co-defendant in this case. The entry on Government's Exhibit 92 for identification was made by me. The original entry on March 7th up to this part was made by me. The first half of the card, over to the column "amount," and all these items on the left, were made by me, and this is one of the records of the bank. It is an auxiliary or memorandum record. We term it the liability ledger card, the description of the note. The nature of the record is what we call a liability record indicating the amount of money being owed by any particular borrower. That entry is a correct record of the transaction which it purports to record. The entry of March 7th, 1929, on Government's Exhibit 93 in evidence was made by me. It is similar to the record in Government's Exhibit 92. These entries were made by me over to the column "Amount." The right-hand entries were

(Testimony of W. C. Evans.)

not made by me. Government's Exhibit 94, the entry on that exhibit is a similar exhibit as of the bank. That entry was made by me also. All of those entries which I have identified were correct records of the transactions which they purport to record.

Mr. Flynn: We offer in evidence, if the Court please, the parts of Government's Exhibits 92, 93 and [258] 94, which the witness has identified, and in order to keep the record straight as to the part of the exhibits which is going into the record, we ask leave to read them into the record. We are also offering the printed heading which shows what the entries are in regard to.

Mr. Hardy: (On voir dire examination of the witness) Mr. Evans, did you testify that these entries were made in your own handwriting, the ones referred to by Mr. Flynn?

A. Yes, the entries on the first line under date of March 7th, over to that column including the amount.

Q. Are those the first permanent entries on that transaction, or are they reflected from other records or memoranda of the Bank?

A. That is only an auxiliary record or memorandum record.

Q. Well, is it the first record of the transaction?

A. It is not.

Q. It is a secondary record?

A. A secondary record.

Mr. Hardy: We object to the introduction of the portions of the exhibits referred to by Mr.

(Testimony of W. C. Evans.)

Flynn, for the reason that it appears they are not the first record of the transaction; for the second reason that no proper foundation has been laid for the admission; that they are hearsay as to these defendants, and that from the exhibits themselves, they appear to be records referring to transactions between the Bank and Joseph E. Shreve, J. G. Cash, and Glen O. Perkins. [259]

The Court: They may be received.

Mr. Hardy: Exception.

The witness continuing on direct examination: This entry that I have identified or questioned about on cross examination, is merely one of the steps of the complete record of this transaction in the books, Exhibit 91 which I have identified being made on this debit slip loans, is the first record.

The United States Attorney thereupon read into evidence Government's Exhibit 92, as follows:

GOVERNMENT'S EXHIBIT 92,

which is in full substance as follows: "The heading 'Maker: Shreve, Joseph E., Care of Southwest Union Securities Corporation, San Diego, California, under the date March 7, 1929; Security or endorser, 3-7-29, endorsed Jesse H. Shreve, Certificate 100, Sunset B. and L. Association, San Diego, \$12,500.00; per cent, 7; Number, 127; Amount, \$10,000.00'." The foregoing exhibit discloses that the note therein indicated was paid Oct. 9, 1929.

(Testimony of W. C. Evans.)

The witness continuing: This refers to the note given by Joseph Shreve to the bank. This memo indicates also the endorser of the note and the collateral; in other words, a certificate of shares of the Sunset Building and Loan Association was collateral for that loan.

The United States Attorney thereupon read into evidence Government's Exhibit 93 and 94, as follows:

GOVERNMENT'S EXHIBIT 93,

which is in full substance as follows: "Maker: Glen O. Perkins, 101 Scott Street, Tucson, Arizona, under date of March 7th, 1929; Security or endorser, 3-7-29, 200 Security B. and L., Tucson, endorser, J. H. Shreve; per cent, 7; Number, 128; Amount 10,000." The foregoing exhibit discloses that the note therein indicated was paid Oct. 9, 1929. [260]

GOVERNMENT'S EXHIBIT 94,

which is in full substance as follows: "Maker: Cash, J. G., address 101 Scott Street, Tucson; Date, March 7th, 1929; Security or endorser, 100 Security B. and L. Association, Tucson; Endorser, J. H. Shreve." The foregoing exhibit discloses that the note therein indicated was paid Oct. 9, 1929.

The witness continuing: The J. H. Shreve which is entered here as endorser of the notes is the defendant Jesse H. Shreve. Government's Exhibit 95 for identification is a record of the First National Bank in Prescott, which was kept during the time

(Testimony of W. C. Evans.)

I was cashier. The entries beginning with the third entry on that page which have the red check mark in the left of the column, being entries third, fourth and fifth on this page, are in the handwriting of H. W. Faulkner who was the teller. Examining Government's Exhibit 96 for identification, for the purpose of refreshing my memory, it is my recollection that these notes were paid by this check or draft of \$30,000, which is Government's Exhibit 96. The draft itself was not dated. The date of payment is October 9, 1929.

Government's Exhibit 95 and 96 for identification were received in evidence.

GOVERNMENT'S EXHIBIT 95,

which is in full substance as follows:

BILLS RECEIVABLE.

Date Received	Maker	Endorsers	No.	Amo
1929	Amount Carried Forward			
Mar 7	Joseph E. Shreve	100 shrs 7% B & L Assn., San Diego, Calif. \$12,500.	127	\$10,
Mar 7	Glen O. Perkins	J. H. Shreve 200 shrs Security B & L Assn \$25,000.	128	10,
Mar 7	J. G. Cash	J. H. Shreve 100 shrs Security B & L Assn \$12,500.	129	10,

(Testimony of W. C. Evans.)

GOVERNMENT'S EXHIBIT 96,

which, abstracted to the issue, is in full substance as follows: Undated sight customers draft for \$30,000, drawn on First National Bank, Prescott, Arizona, by Security Building and Loan Association, by A. C. Shreve and J. G. Cash, Secretary. Perforated: Pd 10-9-29.

The witness continuing: That was a draft on the account of the Security Building and Loan, which it deposited in the First National Bank, and the funds that paid off this loan came out of the Security Building and Loan Association. The A. C. Shreve whose name appears upon this draft is one of the defendants. The entries on Government's Exhibit 97 for identification are in my handwriting, and were made as part of the records of the transactions of the First National Bank in Prescott, by me as cashier, and correctly records the transaction which it purports to record. Government's Exhibits 98 and 99 for identification were the source of my information for the making of these entries on Government's Exhibit 97 for identification. I do not recall the letter but remember the transaction. I am willing to recognize it as being a part of the transaction which accompanied Government's Exhibit 99 for identification.

Thereupon Government's Exhibit 97 was read to the jury by the United States Attorney, as follows:

(Testimony of W. C. Evans.)

GOVERNMENT'S EXHIBIT 97,

which is in full substance as follows: Debit Other Bonds and Securities—May 28, 1930. Inv. Cert. Security B-L Assn.

No. A 101	1,000.
A 102	1,500.
A 103	2,500.
A 104	2,500.
A 105	2,500.
	<hr/>
(E) Total	10,000.

Mr. Flynn: Now, Mr. Evans, will you explain to the Court and jury just what this entry means; [262] what was the effect of that? In other words, what was the purpose of that entry?

Mr. Hardy: We object to that as calling for a conclusion of the witness.

The Court: Well, he can show how it is connected with this transaction.

Mr. Hardy: That is not the question the United States Attorney asked.

The Court: I say he can do that.

Mr. Flynn: I am asking the witness as to this entry in regard to these certificates of the Building and Loan, and the amounts after, as to what the entry shows as to these certificates.

Mr. Hardy: The entry speaks for itself, your Honor. We will submit that calls for a conclusion of the witness.

(Testimony of W. C. Evans.)

The Court: No, I don't think so, go ahead.

Mr. Hardy: Exception.

The Witness: Well, the entry is the debit of other bonds and securities. That was the name of the account on the general ledger, under which such assets were entered, and the description represents their investment certificates of the Security Building and Loan Association with the numbers and the amounts of each certificate.

The witness continuing: The certificates mentioned in Government's Exhibit 97 are the certificates which I have identified as Government's Exhibit 99 for identification.

Mr. Flynn: We now offer in evidence Government's Exhibits 98 and 99.

Mr. Hardy: Object to the introduction of Government's Exhibits Nos. 98 and 99, for the reason that it first shows that it is a letter from the [263] Security Building and Loan Association signed by D. H. Shreve and addressed to the First National Bank of Arizona; has not been shown that the defendants had any connection with the preparation or the mailing of that letter. It is hearsay as to them, and, therefore, incompetent. No proper foundation has been laid for its admission as against these defendants, and then we offer the same objection to Government's Exhibit 99 for identification which accompanied that letter.

The Court: They may be admitted.

Mr. Hardy: Exception.

(Testimony of W. C. Evans.)

Thereupon Government's Exhibits 98 and 99 were read in evidence to the Jury by the United States Attorney.

GOVERNMENT'S EXHIBIT 98,

which is in full substance as follows: Undated letter on stationery of Security Building and Loan Association addressed Phoenix, Arizona, to First National Bank, Prescott, signed Security Building and Loan Association by D. H. Shreve, stating: "We enclose herewith our Coupon Investment Certificates as follows:

No. A 101	for	\$ 1,000.00
A 102	"	1,500.00
A 103	"	2,500.00
A 104	"	2,500.00
A 105	"	2,500.00
		<hr/>
Total		\$10,000.00

"All of the above certificates made in your favor. As per our understanding, we will take up the W. S. Millener note in the sum of \$10,000 with these certificates. I believe it was the understanding that you would charge the Millener note to the account of Century Corporation and credit that account with these certificates. You may handle this to suit yourself." [264]

GOVERNMENT'S EXHIBIT 99,

which, abstracted to the issue, is in full substance as follows: Full Paid Investment Certificates of

(Testimony of W. C. Evans.)

Security Building and Loan Association described as follows: No. A 101 for \$1,000, issued to First National Bank in Prescott, Arizona, May 14, 1930, signed D. H. Shreve, Vice-President, Attest E. F. Young, Assistant Secretary; with coupons for \$30.00 each attached; and duplicate copy of said certificate. No. A 102 for \$1,500, issued to First National Bank in Prescott, Arizona, May 14, 1930, signed D. H. Shreve, Vice-President, Attest E. F. Young, Assistant Secretary, with coupons for \$30.00 each attached; marked across face "Cancelled 4-27-31"; and duplicate copy of said certificate. No. A 103 for \$2,500, issued to First National Bank in Prescott, Arizona, May 14, 1930, signed D. H. Shreve, Vice-President, Attest E. F. Young, Assistant Secretary, with coupons for \$30.00 each attached; marked across face "Cancelled 4-27-31"; and duplicate copy of said certificate. No. A 104 for \$2,500, issued to First National Bank in Prescott, Arizona, May 14, 1930, signed D. H. Shreve, Vice-President, Attest E. F. Young, Assistant Secretary, with coupons for \$30.00 each attached; marked across face "Cancelled 4-27-31"; and duplicate copy of said certificate. No. A 105 for \$2,500, issued to First National Bank in Prescott, Arizona, May 14, 1930, signed D. H. Shreve, Vice-President, Attest E. F. Young, Assistant Secretary, with coupons for \$30.00 each attached; marked across face "Cancelled 4-27-31"; and duplicate copy of said certificate. Each of foregoing certificates noted received May

(Testimony of W. C. Evans.)

28, 1930, First National Bank, Prescott, by W. C. Evans, Cashier.

The witness continuing: Government's Exhibit 100 for identification is a page of the record of the First National Bank which was kept during the time I was cashier, and is a record of bills receivable and notes due the bank. I think H. W. Faulkner, the teller, made the item on this page which has a red cross mark. He worked on the books. Looking at the entry I can recall the [265] transaction and what it purports to record. I know that the bank had such a note as described here. I would say that is the one mentioned in the entry referred to in these exhibits here as being paid off by these investment certificates of the Security Building and Loan Association.

The witness continuing: Government's Exhibit 101 for identification is an auxiliary record of the First National Bank of Prescott, covering transactions during the time I was cashier. It is a memorandum or auxiliary record of the loans and discounts, the liability record as against the individual borrower. It is not an individual ledger but is an individual record of the maker or borrower. The entry in this exhibit refers to the same note which appears on the last exhibit which I have just testified in regard to, and to the amount referred to in this letter and which was paid off by these investment certificates of the Security Building and Loan Association. Government's Exhibit 101 for identi-

(Testimony of W. C. Evans.)

fication correctly records that part of the transaction insofar as it purports to record it here.

Mr. Flynn: And we offer in evidence at this time Government's Exhibit 101 for identification.

Mr. Hardy: Did you make this record yourself, Mr. Evans?

A. I did not.

Q. Who made it, if you know?

A. I think Mr. Faulkner, who was the Teller in the Bank.

Q. None of the record is in your handwriting?

A. None of it.

Mr. Hardy: Object to its introduction, upon the grounds that no proper foundation has been laid for its admission; furthermore, it refers to some person other than the defendants. It is hearsay as to them, irrelevant, incompetent and immaterial at this time.

[266]

The Court: It may be received.

Mr. Hardy: Exception.

Government's Exhibits 100 and 101 were read to the jury by the United States Attorney, as follows:

GOVERNMENT'S EXHIBIT 100,

which is in full substance as follows: Item 14 of said Exhibit, carried in book entitled "Bills Receivable," dated October 23, 1929, maker W. S. Millener, Endorsers Century Corpn. 100 shares Sunset B & L Co. No. 589, Amount \$9,000.

(Testimony of W. C. Evans.)

GOVERNMENT'S EXHIBIT 101,

which is in full substance as follows: Maker W. S. Millener, Date October 23, 1929, Security or Endorsers Century Corp., 100 shares stock Sunset Building & Loan Co. Percent 7. No. 588. Amount \$10,000. Paid May 28, 1931, \$10,000. Balance 00. Total liability Oct. 23, 1929, \$10,000. Bal. May 28, 1931, 00.

The witness continuing: These exhibits which I have identified as entries which I made on those exhibits were a part of the regular accounting and bookkeeping system of the bank. Those entries were made in the regular course of business of the bank.

Cross Examination.

I occupied the position of cashier of the First National Bank of Prescott and was a member of the Board of Directors of that institution. Altogether there were eleven directors. I think I can name most of them. There was B. Tilton, E. C. Seale, Eugene Neuman, Fred Moore, J. C. Stephens, Alvin Stuppi, W. C. Casey and myself. Mr. T. G. Norris was a stockholder and adviser to the board of directors for the first several months of its existence, not so much as a legal adviser but as a general adviser and counselor. He had formerly been connected with a bank in Prescott and it was his general knowledge of conditions and the people and [267] so on that he was requested by the board of directors to sit with them when it was convenient.

(Testimony of W. C. Evans.)

Neither J. H. Shreve nor A. C. Shreve, defendants in this action, were officers or directors of the First National Bank of Prescott at the time these certificates of deposit were issued or previous to that time, and at that time they had no connection whatever with the bank nor were they employed in any capacity by the bank, and they did not have any control or supervision over the books and records of the bank at that time. The certificates of deposit which I identified this morning were submitted to and approved by the Board of Directors of the bank subsequent to the issuance of the certificates of deposit and prior to the acceptance or the purchase of certain notes in connection with the transaction the Board of Directors passed upon and approved them. The record shows that the W. S. Millner note, being Government's Exhibit 101, was paid. I am familiar with that transaction. To my knowledge neither J. H. Shreve nor A. C. Shreve had anything to do with the note or with that transaction. So far as I know that was a transaction between Millner and the First National Bank of Prescott. I don't recall at this time by whom the note was presented but I know it was presented and accepted. It was approved in the usual way, either by the Board of Directors before its acceptance or by the Directors as a loan committee, and subsequently approved by the Board of Directors. I don't recall the circumstances in that connection but that was the usual procedure. The First Na-

(Testimony of W. C. Evans.)

tional Bank of Prescott was a national banking institution under the supervision of the Federal Government. W. V. Trott was employed by the First National Bank as teller and general bookkeeper. He did not have any official connection with the bank as officer or director. H. W. Faulkner was employed there at the same time as Mr. Trott with virtually the same duties. He was a teller and clerk. During my connection with the bank Mr. Faulkner did not have any connection either as an officer or director. Mr. Trott and Mr. Faulkner performed such duties as they were told to per- [268] form. Of course, in a small bank, where the employees were limited, the duties were rather general, some specific, and then there were certain duties that fell to whoever it was convenient to do the work. They had no part in the management nor did they control any of its policies. Mr. Brewer and Mr. Beach first introduced the matter of obtaining a deposit from the State Treasurer. Previous to that time I had not consulted with J. H. Shreve or A. C. Shreve. That was initiated solely by Mr. Brewer and Mr. Beach. I had known Mr. Brewer previous to that time. I knew him first in about 1921 or 1922 when he was a National Bank Examiner for the Federal Government in Texas. I knew Mr. Beach in Los Angeles during the summer of 1929, and understood he was an insurance broker in New York City. I know that Mr. Brewer and Mr. Beach were interested in the organization of the Security Building and Loan

(Testimony of W. C. Evans.)

Association at the time they consulted me in Prescott. After they consulted me in Prescott I came to Phoenix. I met Mr. Brewer here and we consulted with the State Treasurer's office. I think perhaps Mr. Beach was along. I won't be positive about that. I don't recall who was the State Treasurer at that time but Mr. Neri Osborn was deputy or assistant. He was in that office and it seems to me a man by the name of Price was State Treasurer. In regard to consulting the State Treasurer, I testified this morning that before my connection with the bank at Prescott Mr. Brewer and Mr. Beach were interested in the organization of the bank, and prior to my being connected with the bank, through Mr. Brewer, the bank had filed an indemnity bond or depositary bond to the State of Arizona to qualify itself as a depositary for state funds up to the amount of \$50,000. I was informed by Mr. Brewer that if the Security Building and Loan Association were organized and its capital would be deposited with the State Treasurer, the State Treasurer would have the custody of the funds; that the bank having qualified, would be in a position to receive the \$50,000 on deposit, and it was through my [269] interest in the bank in obtaining the \$50,000 deposit that I came to Phoenix, met Mr. Brewer, and took the matter up with the State Treasurer. I only consulted with Mr. Brewer and Mr. Beach at that time. A few days subsequent to the visit I have referred to, I was notified by Mr.

(Testimony of W. C. Evans.)

Brewer that the organization papers would be filed here on a certain date, and I was here at that time and brought the certificates of deposit with me. That was about March 8th, 1929; it was the date on which the certificates of deposit are dated. I brought these certificates of deposit from Prescott with me. These certificates are dated March 7th, 1929, and I brought them to Phoenix on that date. I met Mr. Brewer, Mr. Beach, Mr. Perkins, and, I believe, Mr. Cusick. I met them at the State Capitol by appointment arranged with Mr. Brewer. It was some time late that day that the organization papers of the Security Building and Loan Association were filed. I don't know what papers they were, whether it was the articles of incorporation or what. At that time, and at the time these certificates of deposit were issued, neither J. H. Shreve or A. C. Shreve had any transaction with the bank in connection with them. These certificates of deposit total \$50,000, and the First National Bank of Prescott received these certificates for deposit. It was regarded as a cash transaction. No actual cash passed over the window. There was one check for \$20,000 accepted as cash, and three notes of \$10,000 each, represented a cash transaction instead of paying out the money through the bars and receiving it back on the C. D.'s, a matter of expediting the transaction. There was no actual money, all represented by paper, but it was a cash transaction; the bank received in payment of the C. D.'s what it regarded as a cash transaction,

(Testimony of W. C. Evans.)

and it was set up on the books of the First National Bank of Prescott. The transactions in that respect were approved by the board of directors of the First National Bank of Prescott. [270]

Redirect Examination.

At that trip to Phoenix I attended a meeting of the organizers of the Security Building and Loan Association, in this way, that some of the organizers or individuals that were expected did not show up and they asked me to act. I think I signed the incorporation papers. I do not recall as to who the officers were but I attended the meeting that was held here at that time, also Mr. Cusick, Mr. Perkins and Mr. Beach. Those certificates of deposit at that time were turned over to the State Treasurer. They were left with the State Treasurer on that day. Referring to the note signed by Joseph Shreve, Cash and Perkins, and endorsed by J. H. Shreve, all of these particular notes were not turned over to the bank at that time. There were three notes. On my return to the bank I presented the matter to the board of directors, there was a committee appointed by the board to investigate the collateral and the endorsers. Government's Exhibit 91, which is in my handwriting, shows a list of these three notes and the amounts, and is a memo dated March 25, 1929. That is when they were entered on the books of the bank. I don't recall the first transactions I had with the defendant J. H. Shreve in regard to these notes which he endorsed, but it was

(Testimony of W. C. Evans.)

soon after the first notes were presented and approved by the board. There were one or two substitutions of the first notes that were made, as to makers and not as to collateral. Mr. J. H. Shreve was here at the time of our visit and he was elected a director and officer of the Security Building and Loan Association. That was the same time that I brought these C. D.'s down here and left them with the Treasurer. I did not have any discussion on that day with Mr. Shreve, or either of the defendants herein, in regard to how this was going to be taken care of at the bank in reference to the notes for the purpose of covering these certificates of deposit. The only thing was this, the statement was made to me by Mr. Brewer, in reference to these notes, that the [271] collateral would be supplied or would be delivered to me by Mr. Shreve, and that was substantiated by him. I had a casual acquaintance with J. H. Shreve some four or five years prior to that time.

Recross Examination.

I was acquainted with J. H. Shreve when I was a National Bank Examiner and examined one of his banks, the Union National Bank at San Diego, California.

W. V. TROTT,

recalled as a witness on behalf of the Government, testified:

I have re-examined Government's Exhibit 82 for identification and the entries which are identified under the column headed by the numbers 14, 15, 16, 17, 18 and 19. I wish now to correct my testimony in regard to those entries. Entries 14 to 18 inclusive instead of 14 to 19, are mine. Those entries were made in these records at the bank under the usual custom of the accounting system and in the usual course of business. These entries correctly record the transactions which they purport to record.

Mr. Flynn: We offer them in evidence. I have them identified here under this column by numbers 14, 15, 16, 17 and 18, being a part of Government's Exhibit 82 for identification.

Mr. Hardy: Q. Are these the first original entries of the transactions appearing thereon, Mr. Trott?

A. You mean the first original entries on that sheet?

Q. Yes.

A. That is the first original entry on that sheet, yes.

Q. Well, are there any other transactions—

[272]

A. No, sir.

Q. —from which these entries are reflected?

A. No, sir.

(Testimony of W. V. Trott.)

Q. They are the first permanent entries——

A. They are.

Q. ——of these transactions?

A. Yes, sir.

Q. And they were made by you in your capacity as——

A. Teller and bookkeeper.

Q. ——teller and bookkeeper of the First National bank of Prescott?

A. That is right, sir.

Q. At the time stated thereon?

A. The date opposite those entries.

Q. Yes. Was Mr. J. H. Shreve or A. C. Shreve employed by that bank at that time?

A. No, sir.

Q. Were they an officer and director of that bank at that time?

A. To the best of my knowledge they were not.

Q. Did they supervise or direct the making of either of these entries?

A. As far as I know, no, sir.

Q. You know that they didn't supervise or direct you in making any of these entries?

A. No, sir.

Mr. Hardy: Now, your Honor, we object to the admission of this document, and we would like to be heard upon this.

The Court: Just state your objection for the record, and I will rule upon it.

Mr. Hardy: Our objection is that there [273] has been no proper foundation laid for the admis-

(Testimony of W. V. Trott.)

sion of the entries referred to, for the reason that they appear to be entries of the First National Bank of Prescott, which is not a corporation or company named in this indictment; and it further appearing from the testimony of this witness that the defendants now on trial had no connection with the banking institution at the time the entries were made, and that they did not supervise or direct the making of the entries, and therefore under the rule announced by the Circuit Court of Appeals in the case of *Shreve versus United States*, reported in 77 Federal(2d), the entries and the exhibit are not admissible as against them in this case.

The Court: Overruled.

Mr. Hardy: Exception, please.

Thereupon the United States Attorney read to the jury lines 14, 15, 16, 17 and 18, being a part of Government's Exhibit 82 for identification, as follows: "March 8, '29. Treasurer of the State of Arizona" under the heading "To whom issued. Deposited by self. No. 14, Amount 1000." Second item: "March 8, '29. Treasurer of the State of Arizona. Deposited by self. No. 15. Amount \$10,000. "March 25, 1929," the third item "To whom issued, Treasurer of the State of Arizona. No. 16. \$10,000. "March 25, '29. Treasurer of the State of Arizona. Deposited by self. No. 17. Amount, \$10,000." And, "March 25, '29. Issued to Treasurer of the State of Arizona. Deposited by self. No. 18. Amount \$10,000. "Daily total, \$30,000" on March 25th.

(Testimony of W. V. Trott.)

Cross Examination.

I do not know whether or not A. C. Shreve or J. H. Shreve had any knowledge of those entries which I have just testified about. [274]

H. W. FAULKNER,

called as a witness on behalf of the Government, testified:

I live in Prescott and am Manager of the Valley National Bank. I was employed by the First National Bank from December, 1928, to February, 1933, as teller and assistant cashier, and later cashier. I am acquainted with the defendants J. H. Shreve and A. C. Shreve. Government's Exhibit 102 for identification is one of the records of the First National Bank over the period of time, or part at least, that I was working there. Those are the signatures of J. H. Shreve, A. C. Shreve, J. G. Cash and John C. Hobbs. The signatures are those of J. H. Shreve and A. C. Shreve, the defendants here.

Mr. Hardy: (On voir dire examination) I did not personally keep this record. At the time this record was made, I think, I was a teller with the First National Bank of Prescott. I was not an officer at that time or a member of the board of directors. I stated that these are the signatures of J. H. Shreve, A. C. Shreve, J. G. Cash and John C.

(Testimony of H. W. Faulkner.)

Hobbs. I know these are their signatures because I had occasion to see that card when it was filed at the bank for that company. I did not see them make those signatures upon this card. That was a signature card which was lodged, with the specimen signatures for these gentlemen.

Mr. Flynn: (The witness continuing) The purpose of that card was to lodge specimen signatures of the officers of the Security Building and Loan Association in our bank. The purpose was so we would know their signatures to pay their checks.

Thereupon Government's Exhibit 102 for identification was offered in evidence.

Mr. Hardy: We object to the introduction of it, your Honor, on the ground that there has no proper foundation been laid for its introduction.

Mr. Flynn: May I ask one question before [275] the Court rules?

Q. What was the purpose of this record in the bank? What purpose did it serve?

Mr. Hardy: We object to that as immaterial, the purpose of it.

The Court: Well, it may be material. You may answer.

Mr. Hardy: Exception, please.

A. The purpose of that card was to lodge specimen signatures of the officers of the Security Building and Loan with our Bank.

Mr. Flynn: Q. What was the purpose of having their signatures authorizing——

(Testimony of H. W. Faulkner.)

A. So we would know the signatures.

Q. For what reason?

A. To pay their checks.

Mr. Flynn: We offer it in evidence.

Mr. Hardy: Same objection.

The Court: It may be received.

Mr. Hardy: Exception.

Direct Examination (Resumed)

We were authorized to pay checks upon any two of those four signatures.

Government's Exhibit 102 was received in evidence.

Mr. Flynn: (Reading to jury) This exhibit,

GOVERNMENT'S EXHIBIT 102

"The named individuals: Security Building and Loan Association of Tucson, Arizona, to the First National Bank of Prescott, Arizona. Authorized signatures: Name, J. H. Shreve, president; A. C. Shreve, vice-president; J. G. Cash, secretary; John C. Hobbs, assistant-secretary. Bank references: Pay on any two signatures."

The witness continuing: Government's Exhibit 103 for [276] identification is one of the records that was kept by the First National Bank of Prescott while I was employed there. They are specimen signatures of the officers of the Century Corporation.

(Testimony of H. W. Faulkner.)

GOVERNMENT'S EXHIBIT 103

was read to the jury by the United States Attorney, as follows: "Authorized signature of the Century Corporation: Mr. J. H. Shreve, Mr. A. C. Shreve, Mr. D. H. Shreve. Date: 8-19-30. Telephone M-9141. Address: 546 B Street, San Diego, California."

The witness continuing: I was authorized to cash any check drawn on the account of the Century Corporation upon any one of those signatures.

The witness continuing: Government's Exhibit 104 for identification was one of the records of the First National Bank which was kept during the time I was employed there. It is a record similar to the last two records I have identified, and was kept for the same purpose.

Mr. Flynn: We offer it in evidence.

Mr. Hardy: We object to the introduction of this exhibit, your Honor, for the reason that it purports to be a signature-card of the Security Building and Loan Association to the First National Bank of Prescott, but it is not signed by either of the defendants now on trial, and, it bears the date of February 10, 1931. We do not think the proper foundation has been laid for the introduction of this exhibit as against these defendants; irrelevant, incompetent and immaterial as to them, and hearsay.

The Court: Whose signatures are on it?

Mr. Flynn: D. H. Shreve, Glen Perkins, R. F. Watt, and E. F. Young.

(Testimony of H. W. Faulkner.)

The Court: It may be received.

Mr. Hardy: Exception. [277]

GOVERNMENT'S EXHIBIT 104

was read to the jury by the United States Attorney, as follows: "Office of Security Building and Loan Association. To the First National Bank, Prescott, Arizona: Below find signatures of officers named in resolution set forth on reverse hereof, and the undersigned for and on behalf of said corporation do hereby make with the First National Bank each and all of the agreements set forth in the resolution appearing on the reverse hereof."

The witness continuing: Government's Exhibit 95 for identification is part of the accounting system of the bank which was kept during the time that I was there. I made those entries on this page which is marked "95 for identification", beginning with the second entry, including the third and fourth entry, which are marked with an X in red. I made those as an employee of the bank and as a part of their accounting system and in the regular order of business at the bank. Those entries correctly reflect and record the transaction which they purport to record.

The witness: (On voir dire examination) I do not recall exactly that either of the defendants were connected with the First National Bank of Prescott at the time these entries were made by me. They did not supervise or direct the making of those entries.

(Testimony of H. W. Faulkner.)

Q. Are these entries the first entries of the transaction, or are they reflected from some other memorandum?

A. Those entries are made from the notes described thereon.

Q. Then, there are other documents from which these entries were made?

A. The notes themselves.

Mr. Hardy: We object to the introduction of the exhibits, your Honor, or the exhibit marked for identification, for the reason that it is not the best evidence. No proper foundation has been [278] laid. It is shown from the witness that they are entries or records of a corporation not named in the indictment, over which the defendants had no control, and the making of the entries were not supervised or directed by the defendant.

The Court: Over-ruled.

Mr. Hardy: Exception.

Government's Exhibit 95 was read to the jury by the United States Attorney, being the second, third and fourth entries on the page marked "95 for identification" under the heading, "Received: March 7, 1929. Maker: Joseph E. Shreve. Endorsers: 100 shares Sunset Building and Loan Association, San Diego, California, \$12,500. Number of loan: 127. Amount: \$10,000." Second item: "March 7th. Makers: Glen O. Perkins. Endorsers: J. S. Shreve; 200 shares Security Building and Loan Association, \$25,000. Number of loan. 128. Amount: \$10,000."

(Testimony of H. W. Faulkner.)

The third item: "March 7, 1929. J. G. Cash, maker. Endorsers: J. H. Shreve and 100 shares Security Building and Loan Association \$12,500. Number of loan: 129. Amount: \$10,000."

The witness continuing: Government's Exhibit 100 for identification is a page of one of the records of the First National Bank which was kept as part of its accounting system. The item which is marked with a red cross before it is in my handwriting. That entry was made by me as an employee of the bank as part of its accounting system and in the regular order of business. The entry correctly records the transaction which it purports to record.

Mr. Hardy: Q. Mr. Faulkner, is this entry about which you testified the first permanent entry of the transaction, or is it reflected from some other record of memorandum?

A. Reflected from the note itself.

Q. Were either of the defendants connected [279] with the First National Bank of Prescott at the time this entry was made?

A. I don't recall.

Q. Was it made at their direction or under their supervision?

A. No.

Mr. Hardy: We object to the admission of the entry, your Honor, on the grounds that the entry itself pertains to a person who is neither of the defendants now on trial. It is an entry of a banking corporation not named in the indictment. No proper

(Testimony of H. W. Faulkner.)

foundation has been laid for its admission. It is hearsay as to these defendants, and it is testified by the witness that it is not made under their direction or supervision, and therefore under the case of *Shreve versus The United States*, decided by the Circuit Court of Appeals, it is inadmissible.

The Court: It may be received.

Mr. Hardy: Exception.

The witness continuing: This book (referring to Exhibit 100) is a record of loans made and also loans paid and the time they were paid. The entries show when the loan was made and the history of the loan and payment and so forth.

Government's Exhibit 100 was read to the jury by the United States Attorney, as follows: "Maker: W. S. Millener," and the column "Endorsers: Century Corporation; 100 shares Sunset Building and Loan Company. Number of loan: 588. Amount: \$10,000. Rate of interest: 7 per cent. Date of bill: 10-15-29. Time demand; Due date, 1-13-30. Paid May 28, 1930."

The witness continuing: This book, being Government's Exhibit 105 for identification, is one of the records and one of the books of account of the First National Bank in Prescott, which [280] was kept during the period I was employed there. I made those entries on that page identified by a red cross mark opposite each entry, and those entries were made by me in the regular course of business of the bank as part of its accounting

(Testimony of H. W. Faulkner.)

system. Those entries correctly record the transactions which they purport to record. It is a record of loan payments and interest payments.

The witness: (On voir dire examination) It is hard to answer whether or not these entries are the first permanent entries or whether they are reflected from some other records or memorandum. Those records are records when the notes were paid, when the cash or whatever else was received, those entries were made.

Q. Are they founded on any other information which was imparted to you?

A. Yes.

Q. In the form of a memorandum or——

A. Yes.

Mr. Hardy: In the form of a memorandum. We object, your Honor, to the introduction of these entries, upon the same grounds as we objected to the introduction of the entries upon the last exhibit.

The Court: Same ruling.

Mr. Hardy: Exception.

GOVERNMENT'S EXHIBIT 105

was read to the jury by the United States Attorney, as follows: "Date: October 9, 1929. By whom paid: Joseph E. Shreve. Number 127. Amount: \$10,000. Interest paid: \$237.22. Time of payment of interest: 10-9-29." The second item, "Date of payment: October 9, 1929. Paid by Glen O. Perkins. No. of loan: 128. Amount: \$10,000. Interest paid: \$237.22;

(Testimony of H. W. Faulkner.)

paid to 10-9-29." Third item, "Date of payment: October 9, 1929. Paid by J. G. Cash. No. 129. [281] Amount: \$10,000. Interest paid: \$237.22."

The witness continuing: The last correctly records the date the interest was paid to. The date of payment is over here. This page in this book marked Government's Exhibit 106 for identification is a record of the First National Bank of Prescott and part of its accounting system which was kept during the time I was employed there. I made the entry on that page which has a red check mark opposite it. That entry was made by me as an employee of the bank and as a part of their accounting system and in the regular course of business of the bank. That entry correctly records the transaction which it purports to record.

Mr. Flynn: We offer this entry in evidence, which is the tenth entry from the bottom of the page.

The witness continuing: (On voir dire examination) That entry which I have testified about is reflected from some other records or memorandum of the bank. It is not the first entry of the transaction. I don't recall that either of the defendants was connected with the banking institution at the time the entry was made. They did not direct or supervise the making of this entry by me.

Mr. Hardy: We object, your Honor, for the reasons heretofore objected—that is, object for the reasons made to the introduction of the last exhibit.

(Testimony of H. W. Faulkner.)

The Court: Same ruling.

Mr. Hardy: Exception.

The witness continuing: Government's Exhibit 106 for identification is a record of loans paid and interest paid.

GOVERNMENT'S EXHIBIT 106

was read to the jury by Mr. Flynn, as follows: "May 28, 1930. Name of by whom paid: W. S. Millener. Number of loan: 588. Amount of loan: \$5000. Interest paid: \$231.39. Interest paid to 5-14-1930." [282]

Cross Examination

The entries on Exhibit 106 for identification refer to W. S. Millener. It is another loan transaction with John P. Mills. I did not know Mr. Mills personally. The entry above Mr. Mills is J. H. Shreve, the defendant here. That is another loan transaction for the amount of \$5000.

Q. And does this book show what happened to that loan?

Mr. Flynn: We object to that on the ground it is not proper cross-examination. Some other entry in the book, your Honor, if I understand, he is asking.

The Court: Sustained.

Mr. Hardy: Exception, please.

R. F. WATT,

recalled by defendants for the purpose of cross examination, testified:

Cross Examination

I have identified Government's Exhibit 61 as the general ledger of the Century Investment Trust. Ordinarily I kept it. I can not say that there are not some entries in here made by someone else without a complete inspection of it. (The witness inspected the book.) That is all entirely in my handwriting. It is not the first book of entry recording these transactions; that is a general ledger of the Century Investment Trust. I worked on those books during June of 1930. The entry dated October 30, 1929, was made before I went to work for the corporation. I made that entry.

Q. From what information did you make that entry?

A. Well, I rewrote the books of the Century Investment Trust from whatever information I could [283] get the necessary information from—from whatever source, I should say.

Q. You rewrote all of the books of the Century Investment Trust?

A. Not entirely, no.

The witness continuing: The three books, or parts of them, which I rewrote, are Government's Exhibit 63 for identification, which is the journal voucher of Century Investment Trust, Government's Exhibit 62 for identification, which is a book marked "Cen-

(Testimony of R. F. Watt.)

ture Investment Trust," and Government's Exhibit 61 for identification, which is marked "General Ledger Century Investment Trust."

Q. And at whose direction did you rewrite those books?

A. D. H. Shreve.

Q. You mean Daniel H. Shreve?

A. Yes, sir.

Q. And what information did you have, or what records did you have from which you rewrote those books?

A. Had the old books, deposits in the Security Building and Loan, and the bank deposit slips, I believe, and check stubs, cancelled checks and what other—what information I could get from Mr. Shreve regarding certain transactions which were not clear of themselves.

Q. When you say "Mr. Shreve" you mean Daniel H. Shreve?

A. Yes, sir, as I previously testified.

The witness continuing: To a great extent I relied upon information I found myself in order to rewrite these books. I do not know where the books and records are from which I rewrote these books. I know what I did with them after I completed re-[284] writing the books. The old pages were put there in the office in one of the files, and I don't know whatever happened to them.

Q. Well, then, these books which have now testified about are not books of original entry?

(Testimony of R. F. Watt.)

A. Well, I think that is asking for an opinion on my part.

Q. Well, they were not originally—they were not made by you from information that came to you direct; they were made from information made by someone else, were they not, or records or entries made by someone else?

A. Yes, sir.

Q. Did you make the original entries from which these books were rewritten?

A. Do you mean like check-stubs or deposit slips?

Q. From whatever source you got this information, did you make the original entries?

A. No, sir.

Q. You did not?

A. No, sir.

Q. Do you know who made them?

A. I don't know.

Q. Well, now, did you copy some of these books in Exhibits 63 and 61 and 62 from other books?

A. From the other books.

Q. From other books?

A. Yes, sir. Some of the entries probably are the same as they were in the old book, but there were many transactions that were not recorded or were not recorded properly in the old books. [285]

Q. And those which you thought were improperly recorded in the old books you recorded, made new entries of those in these books?

(Testimony of R. F. Watt.)

A. Yes, sir.

Q. And that you did on your own responsibility?

A. No, sir.

Q. At whose direction?

A. Daniel H. Shreve.

Q. Daniel H. Shreve?

A. Yes, sir.

Q. Did either J. H. Shreve or A. C. Shreve ever request you or counsel with you in the rewriting of those books?

A. Not that I recall.

Q. And the information which you got to rewrite these books, you don't know whether it was correct or not, do you, Mr. Watt?

A. No, I have no way of knowing of my own personal knowledge.

Q. You were just taking what somebody else had said?

A. I believed it to be correct.

Q. You merely believed it to be correct?

A. Yes, sir.

The witness continuing: I did not rewrite any books of the Security Building and Loan Association, except trace entries in the Building and Loan books which pertained to the Century Investment Trust or the Arizona Holding Corporation. I traced them from the rewritten books of the Century Investment Trust. I did not rewrite any books of the Arizona Holding Corporation. This was in June, 1930, I am referring to. There had been no entries

(Testimony of R. F. Watt.)

made in the books of the Arizona Holding Corporation since November 4th or 5th, 1929. I opened a set of books and brought [286] those up to date.

Q. Where did you get the information from which you brought those books up to date?

A. From the same sources I got the other information: Deposit slips and check stubs, cancelled checks, deposits in the Building and Loan.

Q. And those were records and documents made by someone else?

A. Yes, sir.

Q. And you don't know whether they were correct or not?

A. Not of my own knowledge.

Q. Yes. And who directed you to make those entries about which you have testified in the Arizona Holding Company books?

A. D. H. Shreve.

Q. You mean Daniel H. Shreve?

A. Yes, sir.

Q. Did J. H. Shreve or A. C. Shreve give you any directions with respect to those books?

A. Not that I recall.

The witness continuing: I can select the books of the Arizona Holding Company with respect to which I made those entries. I refer to Government's Exhibits 70, 69, 68, 65, 66 and 67 for identification. Some entries in exhibits numbered 69 and 70 of the Arizona Holding Company are reflected from the rewritten books of the Century Investment Trust,

(Testimony of R. F. Watt.)

because there were some transactions that ran through the three companies; had to give them proper effect in the books of these two corporations. These rewritten entries in the Century Investment Trust had a bearing thereafter upon the books of the Security Building and Loan Association; they had a bearing before that time, if I understand your question [287] correctly. It was not necessary to make any changes in the books of the Security Building and Loan Association because of the re-writing of the books of the Century Investment Trust. I did not rewrite any of the books of the Security Building and Loan Association.

Government's Exhibits 61 to 68 for identification, inclusive, are books and records of the Century Investment Trust. Those books and records contain entries of transactions which happened after October 24, 1931. I think that is true. They do with the possible exception of the insurance accounts receivable and the policy register is not here. I can't answer that definitely without inspecting the entries. They all contain entries subsequent to October 24, 1931. Government's Exhibits 69 and 70 for identification contain entries of transactions which happened after October 24, 1931. They contain a number of such entries. Some entries in Government's Exhibits 61 to 70 for identification, inclusive, are not made by me. Some of them were made by Miss E. F. Young. I think Mrs. Harrington and Miss Harrison may have. Miss Goudy wrote insurance

(Testimony of R. F. Watt.)

policies and the copy of the bill which was filed here in the insurance accounts receivable, whether it was made out by her on the typewriter at the time—not in her handwriting. They were made out by her on the typewriter and that record was transferred into this book, being Government's Exhibit 64 for identification. I probably inserted those records myself. Other than that I did not make the entries which went into the book. I would say, offhand, there are about four handwritings altogether in those books, including myself. I can identify some of this handwriting. Miss Young and I made entries in these books and one or two of the entries are in a handwriting I am not familiar with. I know it is neither the handwriting of Miss Young or myself. There are two handwritings in these books with which I am not familiar. That applies only to the books of the Century Investment Trust. I believe the books of the Arizona Holding Corporation, Government's [288] Exhibits 69 and 70 for identification, are entirely in my own handwriting, with the exception of one five dollar credit which I mentioned the other day, an account of James Gammell, and some pencil notations which do not affect the balance. I do not know who made the item which is not in my handwriting. Some of the entries of transactions in the books identified as Government's Exhibits 61 to 70 inclusive were of transactions which occurred prior to the time I went to work for the Century Investment Trust

(Testimony of R. F. Watt.)

or the Arizona Holding Corporation. The first date of such transaction set up in the books of the Century Investment Trust is October 30, 1929, and I was not working for the Century Investment Trust at that time, but I made that entry in Government's Exhibit 63 for identification. I presume I got that information from the Articles of Incorporation. That was made setting up the capital stock, and states so on the voucher. Referring to Government's Exhibit 62 for identification, which is a book of the Century Investment Trust, and to the page under the subdivision of the Commercial National Bank, No. 102-1, the dates of those transactions are November 20th and on down to December 5th, 1929. I was not connected with the Century Investment Trust at that time. I knew nothing about these transactions except from information I could gather from original sources or from any other information. Mr. Dan Shreve knew about some items. I don't know that he did back this far but the check stubs in most cases would indicate what the charge was to be on the item.

Q. The items appearing on that page which were made by you are not the original entries of those transactions?

A. No, I presume they were not.

Q. They were transcribed by you into that record from other entries, or documents, or records?

A. Yes, sir.

(Testimony of R. F. Watt.)

Q. Or from information which you gathered from [289] place to place?

A. Yes, sir.

The witness continuing: Those are original entries in the books of the Arizona Holding Corporation, being Government's Exhibits 69 and 70 for identification. There have not been any bookkeeping entries made from about November 4th or 5th, 1929, until about June, 1930. Some of those entries in these Arizona Holding Corporation books were based upon or made from entries which then existed in the books of the Century Investment Trust. At the time I became associated with the Arizona Holding Corporation no entries had been made in those books of that corporation for several months prior thereto.

Q. And what did you do with those books?

A. I brought them up to date.

Q. And how did you bring them up to date?

A. From the original sources of information wherever I could find it, deposit slips, depositors in the Building and Loan, check stubs.

Q. Were those deposit slips, check stubs and other data made by you?

A. No, sir.

Q. Made by someone else?

A. Yes, sir.

Q. By whom?

A. I could not answer that now.

Mr. Hardy: We object, your Honor, to the introduction of Government's Exhibits Nos. 61 to 70, in-

(Testimony of R. F. Watt.)

clusive, for identification, for the reason that no proper foundation has been laid for the admission of these books, and for the additional reason that the books are hearsay, and that they are not the best evidence of all or of many of the transactions appearing in such books. For [290] the further reason that the entries therein are not the primary or original entries, because it now appears from this testimony of Mr. Watt, who is a witness for the Government, that these books were rewritten from information, data, from books or records, and from information which came into his possession or under his observation after he became employed by the Century Investment Trust or the Arizona Holding Corporation, and that such data and books and records were not prepared by him, and, therefore, these books as a result are a transcription of entries, memoranda or records which were made by other persons. For the further reason that it appears from the indictment herein that the last letter appearing in such indictment is October 24th, 1931, and that the testimony of the witness Watt is, that many of the entries in these books and records were made and reflected transactions after that date. We further object to the admission of these exhibits marked for identification, for the reason that they are incompetent, irrelevant and immaterial, and for the further reason that there has not been shown by the Government that either of the defendants herein made any of such entries, dictated the making of

(Testimony of R. F. Watt.)

any such entries, or that they knew that any of such entries were made in such books, and in such exhibits.

Mr. Peterson: I would like, your Honor, to have asked a couple of questions of Mr. Watt before the objection was made, but I didn't have the opportunity.

Mr. Hardy: Further, that neither of the defendants caused any of those entries to be made in any of such books. [291]

The Court: Overruled. Proceed.

Mr. Hardy: Exception.

Redirect Examination

Mr. Peterson:

Q. Mr. Watt, in making the entries in the exhibits of the Century Investment Trust and the Arizona Holding Company, were those entries made from the original sources the same as if all the entries had been made when the transactions occurred, and in the regular course of business?

Mr. Hardy: Well, your Honor, we object to that, because it calls for a conclusion of the witness and because he has already testified from what sources the entries were made.

The Court: He may answer.

Mr. Hardy: Exception.

The Witness: They were made in that way, yes, sir.

Thereupon Government's Exhibits 61 to 70 were admitted in evidence.

(Testimony of R. F. Watt.)

GOVERNMENT'S EXHIBIT 61*,

which, abstracted to the issue, is in full substance as follows: General Ledger of Century Investment Trust, under one binder, subdivided and marked: Assets, Liabilities, Revenues and Expenses. First entry under Assets November 30, 1931, account No. 111, Notes Receivable; Account No. 112, Accounts Receivable; Account No. 114, Insurance Accounts Receivable; Account No. 116, Accrued Interest Receivable. First entry under Liabilities October 30, 1929, Account No. 200, authorized capital stock Preferred; Account No. 200-A, unissued capital stock Preferred; Account No. 201, authorized capital stock Common; Account No. 201-A, unissued capital stock Common; Account No. 202, authorized capital stock Series A Preferred; [292] Account No. 202-A, unissued capital stock Series A Preferred; Account No. 203, capital account Preferred; Account No. 204, capital account Common; Account No. 205, capital account Series A Preferred; Account No. 206, Capital Surplus; Account No. 207, earned surplus; Account No. 208, Reserves; Account No. 209, Contingent Fund; Account No. 212, Reserve for Premiums; Account No. 220, Notes and Mortgages Payable; Account No. 223, Contingent Commission Account; Account No. 225, Profit and Loss; First entry under Revenues, October 23, 1931, Account No. 300, interest earned; Account No. 304, stock and bond sales; Account No. 305, cost of stock and bond sales; Account No. 306, Real Estate sales;

(Testimony of R. F. Watt.)

Account No. 307, cost of real estate sales; Account No. 308, insurance commissions earned; Account No. 315, rentals; Account No. 325, miscellaneous earnings; First entry under Expenses November 30, 1930, Account No. 400, General Expense; Account No. 401, Insurance Department Expense; Account No. 402, Property expense; Account No. 411, Commissions paid on sale of capital stock; Account No. 415, commissions paid.

*(Note: By order of Court appearing in last pages of this Bill, Exhibit 61 is ordered to be sent to Clerk of United States Circuit Court of Appeals.)

GOVERNMENT'S EXHIBIT 62*,

which, abstracted to the issue, is in full substance as follows: Binder marked Century Investment Trust, subdivided and marked Cash Received, Cash Record, First Natl. Prescott, Commercial Natl., Citizens State, Sales Record, Insurance Record. Entries Nos. 1, 2 and 3, record of cash received November and December, 1929; Entry No. 4, record of cash received January, 1930; Entry No. 5, record of cash received February, 1930; Entry No. 6, record of cash received March, 1930; Entry No. 7, record of cash received April, 1930; Entry No. 8, record of cash received May, 1930; Entry No. 9, record of cash received June, 1930; Entry No. 10, record of cash received July, 1930; Entry No. 11, record of cash received August, [293] 1930; Entry No. 12, record of cash received September, 1930; Entry No. 13,

(Testimony of R. F. Watt.)

record of cash received October, 1930; Entry No. 14, record of cash received November, 1930; Entry No. 15, record of cash received December, 1930; Entry No. 16, record of cash received January, 1931; Entry No. 17, record of cash received February, 1931; Entry No. 18, record of cash received March, 1931; Entry No. 19, record of cash received April, 1931; Entry No. 20, record of cash received May, 1931; Entry No. 21, record of cash received June, 1931; Entry No. 22, record of cash received June, 1931; Entry No. 23, record of cash received July, 1931; Entry No. 24, record of cash received August, 1931; Entry No. 25, record of cash received September, 1931; Entry No. 26, record of cash received October, 1931; Entry No. 27, record of cash received October, 1931; Entry No. 28, record of cash received November, 1931; Entry No. 29, record of distribution of cash received December, 1931. Check record (none). First Natl Prescott: Entry No. 101-1, record of checks drawn on First National Bank of Prescott, months of November and December, 1929; Entry No. 101-2, record of checks drawn February, 1930; Entry No. 101-3, record of checks drawn March, 1930; Entry No. 101-4, record of checks drawn and distribution of expenses month of April, 1930; Entry No. 101-5, record of checks drawn and distribution of expenses May, 1931; Entry No. 101-6, record of checks drawn June, 1931; Entry No. 101-7, record of checks drawn month of June, 1931; Entry No. 101-8, record of checks drawn month of August,

(Testimony of R. F. Watt.)

1931. Commercial Natl Bank and The Arizona Bank: Entry No. 102-1, record of checks drawn and distribution of expenses for November and December, 1929; Entry No. 102-2, 102-3, 102-4, 102-5, 102-6, record of checks drawn and distribution of expenses January, 1930; Entry No. 102-7 and 102-8, record of checks drawn and distribution of expenses February, 1930; Entry No. 102-9, 102-10 and 102-11, record of checks drawn and distribution of expenses March, 1930; Entry No. 102-12, 102-13 and 102-14, record of checks drawn and distribution of expenses April, [294] 1930; Entry No. 102-15 and 102-16, record of checks drawn and distribution of expenses May, 1930; Entry No. 102-17 and 102-18, record of checks drawn and distribution of expenses June, 1930; Entry No. 102-19, record of checks drawn July, 1930; Entry No. 102-20 and 102-21, record of checks drawn August, 1930; Entry No. 102-22 and 102-23, record of checks drawn September, 1930; Entry No. 102-24, 102-25, 102-26 and 102-27, record of checks drawn and distribution of expenses October, 1930; Entry No. 102-28 and 102-29, record of checks drawn December, 1930; Entry No. 102-30 and 102-31, record of checks drawn December, 1930; Entry No. 102-32, 102-33, 102-34, 102-35 and 102-36, record of checks drawn and distribution of expenses January, 1931; Entry No. 102-37 and 102-38, record of checks drawn February, 1931; Entry No. 102-39 and 102-40, record of checks drawn March, 1931; Entry No. 102-41, 102-42, 102-43, 102-44 and 102-45, record of checks drawn

(Testimony of R. F. Watt.)

and distribution of expenses April, 1931; Entry No. 102-46 and 102-47, record of checks drawn May, 1931; Entry No. 102-48 and 102-49, record of checks drawn June, 1931; Entry No. 102-50 and 102-51, record of checks drawn July, 1931; Entry No. 102-52, record of checks drawn August, 1931; Entry No. 102-53, record of checks drawn September, 1931; Entry No. 102-53, record of checks drawn October, 1931; Entry No. 102-55, record of checks drawn November, 1931. Citizens State Bank: Record of checks drawn, and distribution of expenses: Month of April, 1930, Entries Nos. 103-1, 103-2, 103-3 and 103-4; month of May, 1930, Entry No. 103-5; month of June, 1930, Entry No. 103-6; month of July, 1930, Entries Nos. 103-7, 103-8, 103-9, 103-10 and 103-11. Record of Sales, November and December, 1929, Account No. 1, first entry November 8, 1929; month of January, 1930, Account No. 2; month of February, 1930, Account No. 3; month of March, 1930, Account No. 4; month of April, 1930, Account No. 5; month of May, 1930, Account No. 6; month of June, 1930, Account No. 7. Record of Insurance Policies, for 1929 and 1930, first entry December 7, 1929, Distribution of Premiums: Account No. 1, record of insurance [295] policies for years 1929 and 1930; Distribution of Premiums: Account No. 2, record of insurance policies for year 1930 and 1931; Distribution of Premiums: Account No. 3, record of insurance policies for year ending 1931; Distribution of Premiums: Account No. 4.

*(Note: By order of Court appearing in last pages of this Bill, Exhibit 62 is ordered to be sent

(Testimony of R. F. Watt.)

to Clerk of United States Circuit Court of Appeals.)

GOVERNMENT'S EXHIBIT 63*,

which, abstracted to the issue, is in full substance as follows: Journal voucher Century Investment Trust, subdivided: Journal, Notes Receivable, Accounts Receivable, Insurance Accounts Receivable, Notes Payable. Voucher A, dated October 30, 1929, sets forth authorized and unissued capital stock of Century Investment Trust, containing Vouchers from 1 to 214, inclusive, the first dated November 6, 1929, and the last dated January 31, 1932, disclosing numerous stock issuances. Notes Receivable discloses note of Arizona Holding Corporation, dated December 16, 1931, for \$250,000, due December 16, 1936, without security, and thereafter shows various mortgage loans, including notes of Harry Nelson et ux, Oscar H. Robson et ux, W. H. Perry, R. A. York, A. W. and Fannie York, Lyda Dreyfus, F. D. Arrington, James M. Shumway. Accounts Receivable discloses charges, credits and balance of Arizona Holding Corporation. Insurance Accounts Receivable discloses one item in the name of George J. Gomez. Notes Payable discloses one item, being note of Security Building and Loan Association dated 10-1-31 in amount of \$250,427.45, payable \$2500. in monthly installments.

*(Note: By order of Court appearing in last pages of this Bill, Exhibit 63 is ordered to be sent to Clerk of United States Circuit Court of Appeals.)

(Testimony of R. F. Watt.)

GOVERNMENT'S EXHIBIT 64*,

which, abstracted to the issue, is in full substance as follows: [296] Accounts Receivable, Century Investment Trust, alphabetically subdivided, containing Insurance Premiums and Accounts Receivable from various named creditors, including D. H. Shreve.

*(Note: By order of Court appearing in last pages of this Bill, Exhibit 64 is ordered to be sent to Clerk of United States Circuit Court of Appeals.)

GOVERNMENT'S EXHIBIT 65*,

which, abstracted to the issue, is in full substance as follows: Capital Stock Journal, Century Investment Trust, subdivided: Preferred, Common, Series A Preferred, containing record of various stock transfers of Century Investment Trust. Date of first entry under Preferred being November 8, 1929, A. C. Shreve, G. O. Perkins and V. Munter, respectively, Certificates Nos. 1, 2 and 3 Treasury Stock; also transfers to Manuel J. King, R. R. Guthrie, Guardian, Frederick O. Knipe, Mrs. Lulu Gatlin, Mary Robson, M. J. Hughes, Wesley Palmer, Arizona Holding Corporation, James M. Shumway, Melville H. Haskell, W. C. Evans, Harry Nelson and Anna B. Nelson, Century Corporation and Alice H. Davis.

*(Note: By order of Court appearing in last pages of this Bill, Exhibit 65 is ordered to be sent to Clerk of United States Circuit Court of Appeals.)

(Testimony of R. F. Watt.)

GOVERNMENT'S EXHIBIT 66*,

which, abstracted to the issue, is in full substance as follows: Stockholders' Ledger Preferred Stock Century Investment Trust, alphabetically subdivided, containing record of stock issues to various persons, including Arizona Holding Corporation, Century Corporation, Alice H. Davis, W. C. Evans, Mrs. Lulu Gatlin, R. R. Guthrie, Guardian, Melville H. Haskell, Manuel J. King, Frederick O. Knipe, V. Munter, Harry Nelson and Anna B. Nelson, Wesley Palmer, Glen O. Perkins, O. H. Robson and Mary Robson, A. C. Shreve, D. H. Shreve, James M. Shumway, E. T. Cusick, [297] R. R. Guthrie, Administrator, Helen Hannon, M. J. Hughes and W. H. Perry.

*(Note: By order of Court appearing in last pages of this Bill, Exhibit 66 is ordered to be sent to Clerk of United States Circuit Court of Appeals.)

GOVERNMENT'S EXHIBIT 67*,

which, abstracted to the issue, is in full substance as follows: Stockholders' Ledger Common Stock Century Investment Trust, alphabetically subdivided, containing record of stock issues to various persons, including Arizona Holding Corporation, Century Corporation, Alice H. Davis, W. C. Evans, R. R. Guthrie, Guardian, Melville H. Haskell, Manuel J. King, Frederick O. Knipe, V. Munter, Harry Nelson and Anna B. Nelson, Wesley Palmer, Glen O.

(Testimony of R. F. Watt.)

Perkins, O. H. Robson and Mary Robson, A. C. Shreve, D. H. Shreve, James M. Shumway, E. T. Cusick, R. R. Guthrie, Administrator, Helen Hannon, M. J. Hughes and W. H. Perry.

*(Note: By order of Court appearing in last pages of this Bill, Exhibit 67 is ordered to be sent to Clerk of United States Circuit Court of Appeals.)

GOVERNMENT'S EXHIBIT 68*,

which, abstracted to the issue, is in full substance as follows: Stockholders' Ledger Series A Preferred Stock Century Investment Trust, alphabetically subdivided, containing record of stock issues to various persons, including Arizona Holding Corporation, Century Corporation, Alice H. Davis, W. C. Evans, Harry Nelson and Anna B. Nelson, Mary Robson and D. H. Shreve.

*(Note: By order of Court appearing in last pages of this Bill, Exhibit 68 is ordered to be sent to Clerk of United States Circuit Court of Appeals.) [298]

GOVERNMENT'S EXHIBIT 69*,

which, abstracted to the issue, is in full substance as follows: Binder not marked, subdivided and marked inside Cash Received, Check Record, Consolidated Natl, Arizona-Southwest, Journal, General Ledger, containing: Record of cash received, Account No. 1, months of November and December, 1929, first entry November 5, 1929; Account No. 2, record of

(Testimony of R. F. Watt.)

cash received January, 1930; Account No. 3, record of cash received February, 1930; Account No. 4, record of cash received March, 1930; Account No. 5, record of cash received June, 1930; Account No. 6, record of cash received November, 1931; Account No. 7, record of cash received November, 1931; Accounts 8 and 9, record of cash received December, 1931; Account No. 10, record of cash received January, 1932; Account No. 11, record of cash received February, 1932; Account No. 12, record of cash received February, 1932; Account No. 13, record of cash received March, 1932; Account No. 14, record of cash received April, 1932; Account No. 15, record of cash received May, 1932; Account No. 16, record of cash received June, 1932; Account No. 17, record of cash received July, 1932; Account No. 18, record of cash received August, 1932; Account No. 19, record of cash received September, 1932. Check record, First Natl Bank, Account No. 107-0, first entry Nov. 28, 1931; Account No. 107-1, December, 1931; Account No. 107-2, January, 1932; Account No. 107-3, March, 1932; Account No. 107-4, April, 1932; Account No. 107-5, May, 1932. Check record, Phoenix Natl Bank, Account No. 108-1, first entry Dec. 31, 1931; Account No. 108-2, January, 1932; Account No. 108-3, February, 1932; Account No. 108-4, March, 1932; Account No. 108-5, April, 1932; Account No. 108-6, May, 1932; Cons. Natl., Account No. 101-1, first entry December 17, 1929; Account No. 101-2, January, 1930; Account No. 101-3, Feb-

(Testimony of R. F. Watt.)

ruary, 1930; Account No. 101-4, March, 1930; Account No. 101-5, April, 1930; Account No. 101-6, June, 1930. Arizona-Southwest, Account No. 103-1, first entry Dec. 19, 1929; Account No. 103-2, January, 1930; Account No. 101-3, February, 1930; Account [299] No. 103-4, April, 1930; Account No. 103-5, May, 1930; Account No. 103-6, June, 1930. Journal, Accounts Nos. 1, 2 and 3, first entry Nov. 4, 1929; Accounts Nos. 6, 7, 8, 9, 10, 11 and 12, month of December, 1929; Accounts Nos. 13, 14, 15 and 16, month of January, 1930; Accounts Nos. 17, 18, 19, 20, 21, 22, 23, 24, 25 and 26, month of February, 1930; Accounts Nos. 27, 28, 29, 30 and 31, month of March, 1930; Accounts Nos. 32, 33, 34, 35, 36, 37, 38, 39 and 40, month of April, 1930; Accounts Nos. 41 to 49 inclusive, month of May, 1930; Accounts Nos. 50 to 56 inclusive, month of June, 1930; Accounts Nos. 57 to 69 inclusive, month of July, 1930; Accounts Nos. 70 to 73, inclusive, month of August, 1930; Accounts Nos. 74 to 78 inclusive, month of September, 1930; Accounts Nos. 79 to 86 inclusive, month of October, 1930; Accounts Nos. 87 to 91 inclusive, month of November, 1930; Accounts Nos. 92 to 104 and 104-A inclusive, month of December, 1930; Accounts Nos. 105 to 112 inclusive, month of January, 1931; Accounts Nos. 113 to 119 inclusive, month of February, 1931; Accounts Nos. 120 to 127 inclusive, month of March, 1931; Accounts Nos. 128 to 136 inclusive, month of April, 1931; Accounts Nos. 137 to 146 inclusive, month of

(Testimony of R. F. Watt.)

May, 1931; Accounts Nos. 147 to 154 inclusive, month of June, 1931; Accounts Nos. 155 to 161 inclusive, month of July, 1931; Accounts Nos. 162 to 166 inclusive, month of August, 1931; Accounts Nos. 167 to 172 inclusive, month of September, 1931; Accounts Nos. 173 to 176 inclusive, month of October, 1931; Accounts Nos. 177 to 180 inclusive, month of November, 1931; Accounts Nos. 181 to 187 inclusive, month of December, 1931; Accounts Nos. 188 and 189, month of January, 1932; Account No. 190, month of February, 1932; Account No. 191, month of March, 1932; Accounts Nos. 192 and 192-A, month of April, 1932; Account No. 193, month of May, 1932; Account No. 194, month of June, 1932; Account No. 195, month of August, 1932; Account No. 196, month of September, 1932; Account No. 197, month of October, 1932. General Ledger, cash account, Account No. 100, first entry dated Nov. 15, 1929; Consolidated Natl Bank, Account [300] No. 101, Southern Arizona Bank and Trust Company, Account No. 102; Arizona-Southwest, Account No. 103; United Bank & Trust Company, Account No. 104; Security Building and Loan Association, Tucson Office, Account No. 105; first entry dated Nov. 2, 1929, designated "Their Account No. 115", continued as Account No. 106; First Natl Bank, Phoenix, Account No. 107; Phoenix State Bank, Account No. 108; Real Estate, Account No. 109; Stocks and Bonds, Account No. 110; Notes Receivable, Account No. 111; Accounts Receivable, Account No. 112;

(Testimony of R. F. Watt.)

Furniture and Fixtures, Account No. 113; Insurance Accounts Receivable, Account No. 114; Prepaid rent, Account No. 115; Accrued Interest Receivable, Account No. 116; Organization Expense, Account No. 120; Authorized Capital Stock Preferred, Account No. 200; Unissued Capital Stock Preferred, Account No. 200-A; Authorized Capital Stock Common, Account No. 201; Unissued Capital Stock Common, Account 201-A; Surplus, Account No. 207, disclosing balance May 31, 1932, \$3,139.35; Undivided Profits, Account No. 210; Dividend Account, Account No. 211; Reserve for Contingencies, Account No. 212; Reserve for Income Taxes, Account No. 213; Unearned Discount, Account No. 215; Notes and Mortgages Payable, Account No. 220; Accounts Payable, Account No. 221; Suspense, Account No. 230; Profit and Loss, Account No. 235; Interest Earned, Account No. 300; Commission Earned, Account No. 301; Dividends Received, Account No. 302; Discounts Earned, Account No. 303; Stocks and Bonds Sales, Account No. 304; Cost of Stocks and Bonds Sales, Account No. 305; Real Estate Sales, Account No. 306; Cost of Real Estate Sales, Account No. 307; Insurance Commissions Earned, Account No. 308; Rentals, Account No. 315; Miscellaneous Earnings, Account No. 325; General Expense, Account No. 400; Property Expense, Account No. 402; Holbrook Ranch Expense, Account No. 403; Taxes, Account No. 405; Interest Paid, Account No. 410; Commission on Sale of Cap-

(Testimony of R. F. Watt.)

ital Stock, Account No. 411; Discounts Paid, Account No. 412; Repairs and Renewals, Account No. 414; Commissions Paid, Account No. 415; Income Taxes, Account No. [301] 417; Water Rate, Account No. 418.

*(Note: By order of Court appearing in last pages of this Bill, Exhibit 69 is ordered to be sent to Clerk of United States Circuit Court of Appeals.)

GOVERNMENT'S EXHIBIT 70*,

which, abstracted to the issue, is in full substance as follows: Stockholders' Ledger Arizona Holding Corporation, subdivided: Real Estate, Stocks and Bonds, Notes Receivable, Accounts Receivable, Notes Payable, Accounts Payable. Real Estate: first entry dated 6-12-31, including West half Lots 6 and 7, Blk. 15, Mesa; Lots 5 and 6, Blk. 231 of Tucson, with notation "This property came from Mary Robson for stock of Century Investment Trust." Stocks and Bonds: showing various stock transactions with Century Investment Trust, entitled "Insurance Securities Corporation". Notes Receivable includes O. H. and Mary Robson dated 1-23-30 for \$1500.00, due 4-23-30, security 740 shares preferred stock Century Investment Trust and 400 shares common stock Century Investment Trust. Accounts Receivable includes items Citizens State Bank, John C. Hobbs, Mesa Agency, Glen O. Perkins, W. H. Perry, O. H. Robson, Security Building

(Testimony of R. F. Watt.)

and Loan Association. Notes Payable includes items of Century Investment Trust note dated 12-16-31, amount \$250,000.00, payable 12-16-36; also note Century Investment Trust dated 5-16-32, amount \$12,800.00, due 12-31-35; also Mary Robson note, payable 11-1-30, secured by 80 shares preferred and 80 shares common and 80 shares Series A preferred stock Century Investment Trust; also James M. Shumway note dated 2-23-32, amount \$550.00, dated 2-23-37. Accounts Payable, containing miscellaneous accounts with Arizona National Bank, Century Investment Trust, D. H. Shreve and R. F. Watt.

(*Note: By order of Court appearing in last pages of this Bill, Exhibit 70 is ordered to be sent to Clerk of United States Circuit Court of Appeals.)

[302]

MISS E. F. YOUNG,

recalled as a witness on behalf of the Government, testified:

The second signature on Government's Exhibit 107 for identification, being a check, is my signature. I don't remember the other signatures. I have seen that name but I would not swear that was his signature. Guess I was employed there during a portion of 1930 and 1931. I would definitely identify my signature. That is my signature on that check. That is my signature upon Government's Exhibit 107-A for identification, 107-B,

(Testimony of Miss E. F. Young.)

107-C, 107-D, 107-E, 107-F and on through to 107-R. They are Security Building and Loan checks. That is the only way I signed checks, in the regular course of business. I signed each of these twelve checks, being Government's Exhibit 108 for identification. They were signed by me in the regular course of business of the Security Building and Loan Association. I signed the series of five checks, being Government's Exhibit 109 for identification, in the regular course of business of the Security Building and Loan Association. For the most part I signed the sixty-five separate slips comprising Government's Exhibit 110 for identification. There are some not in my handwriting. I don't recognize these (referring to documents), it is my handwriting, but stamped. It is my handwriting, a fac-simile handwriting. These two are exceptions (referring to documents) I don't recognize at all. The others have some identification that shows they passed through my hands. There are only two portions of this exhibit which I did not either sign, or are not in my handwriting. Those slips and tickets were made in the regular course of business of the Security Building and Loan Association. I think those are my signatures upon the series of five checks, being Government's Exhibits 111, 111-A, 111-D for identification. This is not exactly like I usually sign. I would not swear it is my signature. It does look like it, but in some respects not, but I presume it is. Nobody else was permitted to sign my name.

(Testimony of Miss E. F. Young.)

On that first one I really could not definitely say [303] That it is my signature. I presume it is. I have one way of signing, and that is a little bit different. I recognize the second one definitely and it does look different. If I saw that in connection with nothing else, I would not know if it was mine or not. That is my signature on 11-A and 111-D but I did not sign 111-B and 111-C. I signed the check which is Government's Exhibit 112 for identification in the regular course of business of the Security Building and Loan Association.

Mr. Peterson: At this time, your Honor, we offer in evidence Government's Exhibit 107 to 107-R, inclusive, being a series of checks, in evidence.

Mr. Hardy: We object, your Honor, to the introduction of these exhibits collectively, for the reason that some of them have not been identified by the witness.

Mr. Peterson: All of these have been identified.

Mr. Hardy: All of these? I thought——

Mr. Peterson: That was the first exhibit.

Mr. Hardy: Did you identify all of these, Miss Young?

The Witness: All those that had my signature, yes.

Mr. Hardy: And upon the further grounds that no proper foundation has been laid for the admission of this exhibit for identification as against these defendants now on trial.

The Court: Overruled.

(Testimony of Miss E. F. Young.)

Mr. Hardy: Exception.

Government's Exhibits 107 and 107-A to 107-R inclusive were admitted in evidence.

GOVERNMENT'S EXHIBIT 107,

which, abstracted to the issue, is in full substance as follows: [304] Check No. 52 of Security Building and Loan Association, dated June 7, 1930, for \$200.00, payable to Century Investment Trust, drawn on Commercial National Bank, Phoenix, signed by A. C. Shreve and E. F. Young, endorsed Century Investment Trust, E. F. Young.

GOVERNMENT'S EXHIBITS 107-A to 107-R, INCLUSIVE,

which, abstracted to the issue, are in full substance as follows: 107-A—Check No. 54—Same as Government's Exhibit 107, except dated January 8, 1930, for \$300.00, same endorsement. 107-B—Check No. 70—Same as Government's Exhibit 107, except dated January 17, 1930, for \$1500.00, signed by Glen O. Perkins and E. F. Young, same endorsement. 107-C—Check No. 75—Same as Government's Exhibit 107, except dated January 20, 1930, for \$500.00, signed by A. C. Shreve and E. F. Young, same endorsement. 107-D—Check No. 78—Same as Government's Exhibit 107, except dated January 23, 1930, for \$500.00, same signers, same endorsement. 107-E—Check No. 109—Same as Government's Exhibit 107, except dated February 19, 1930, for \$750.00,

(Testimony of Miss E. F. Young.)

same signers, same endorsement. 107-F—Check No. 111—Same as Government's Exhibit 107, except dated February 20, 1930, for \$175.00, same signers, same endorsement. 107-G—Check No. 126—Same as Government's Exhibit 107, except dated March 1, 1930, for \$800.00, same signers, same endorsement. 107-H—Check No. 192—Same as Government's Exhibit 107, except dated April 11, 1930, for \$2626.00, payable to Arizona Holding Corporation, same signers, endorsed Arizona Holding Corporation by D. H. Shreve, and Security Building and Loan Association by E. F. Young. 107-I—Check No. 193—Same as Government's Exhibit 107, except dated April 11, 1930, for \$2400.00, payable to Arizona Holding Corporation, signed by same officers, endorsed Arizona Holding Corporation by D. H. Shreve and Century Investment Trust by E. F. Young. 107-J—Check No. 195—Same as Government's Exhibit 107, except dated April 12, 1930, for \$300.00, payable to Arizona Holding Corporation, same signers, endorsed Arizona Holding [305] Corporation by D. H. Shreve, Century Investment Trust by E. F. Young. 107-K—Check No. 196—Same as Government's Exhibit 107, except dated April 15, 1930, for \$2527.78, payable to Arizona Holding Corporation, same signers, endorsed Arizona Holding Corporation by D. H. Shreve, Security Building and Loan Association by E. F. Young. 107-L—Check No. 197—Same as Government's Exhibit 107, except dated April 15, 1930, for \$400.00,

(Testimony of Miss E. F. Young.)

signed by same officers, payable to Arizona Holding Corporation, endorsed Arizona Holding Corporation by D. H. Shreve, Security Building and Loan Association by E. F. Young. 107-M—Check No. 198—Same as Government's Exhibit 107, except dated April 15, 1930, for \$250.00, payable to Arizona Holding Corporation, same signers, endorsed Arizona Holding Corporation by D. H. Shreve, Century Investment Trust E. F. Young. 107-N—Check No. 217—Same as Government's Exhibit 107, except dated April 30, 1930, for \$360.00, payable to Arizona Holding Corporation, signed by Glen O. Perkins and E. F. Young, endorsed Arizona Holding Corporation by D. H. Shreve, Security Building and Loan Association by E. F. Young. 107-O—Check No. 222—Same as Government's Exhibit 107, except dated May 8, 1930, for \$1800.00, signed by Glen O. Perkins and E. F. Young, endorsed Arizona Holding Corporation by D. H. Shreve, Century Investment Trust by E. F. Young. 107-P—Check No. 228—Same as Government's Exhibit 107, except dated May 15, 1930, for \$4935.80, payable to Arizona Holding Corporation, signed by Glen O. Perkins and E. F. Young, endorsed Arizona Holding Corporation by D. H. Shreve, Security Building and Loan Association by E. F. Young. 107-Q—Check No. 5006, dated April 12, 1930, payable to Arizona Holding Corporation, for \$1000.00 drawn on Citizen's State Bank, Phoenix, signed by A. C. Shreve and E. F. Young, endorsed Arizona Holding Corpo-

(Testimony of Miss E. F. Young.)

ration by D. H. Shreve, Century Investment Trust by E. F. Young. 107-R—Check No. 5011, dated April 15, 1930, payable to Arizona Holding Corporation, for \$8500.00, drawn on Citizens State Bank, Phoenix, signed by D. H. Shreve and E. F. Young, endorsed Arizona Holding Corporation by [306] D. H. Shreve, Security Building and Loan Association by E. F. Young.

Mr. Peterson: I offer at this time Government's Exhibit 108 for identification, being a series of twelve checks.

Mr. Hardy: We object to the introduction of this exhibit for identification for the reason that no proper foundation has been laid for the admission as against these defendants on trial, and for the further reason that it is incompetent, irrelevant and immaterial. It does not appear therefrom that the defendants on trial had any connection with the transactions involved by the exhibit.

The Court: Overruled.

Mr. Hardy: Exception.

Mr. Peterson: We offer at this time Government's Exhibit 109 for identification, a series of five checks. We offer them in evidence.

Mr. Hardy: We make the same objection to this exhibit for identification as we made to the introduction of Exhibit 108 in evidence.

The Court: The same ruling.

Mr. Hardy: Exception.

Government's Exhibit 108 was admitted in evidence.

(Testimony of Miss E. F. Young.)

GOVERNMENT'S EXHIBIT 108,

which, abstracted to the issue, is in full substance as follows: Check No. 189 of Security Building and Loan Association, dated April 10, 1930, for \$4.28, payable to John D. Calhoun, County Treasurer, drawn on Commercial National Bank, Phoenix, signed by Glen O. Perkins and E. F. Young, endorsed John D. Calhoun, County Treasurer; Check No. 200 of Security Building and Loan Association, dated April 15, 1930, for \$8.80, payable to Arizona Holding [307] Corporation, drawn on Commercial National Bank, Phoenix, signed by A. C. Shreve and E. F. Young, endorsed Security Building and Loan Association by E. F. Young; Check No. 226 of Security Building and Loan Association, dated May 15, 1930, for \$30.28, payable to Arizona Holding Corporation, drawn on Commercial National Bank, Phoenix, signed by Glen O. Perkins and E. F. Young, endorsed Arizona Holding Corporation by D. H. Shreve, Century Investment Trust by D. H. Shreve; Check No. 227 of Security Building and Loan Association, dated May 15, 1930, for \$20.70, payable to The Coggins Title Company, drawn on Commercial National Bank, Phoenix, signed by Glen O. Perkins and E. F. Young, endorsed Coggins Title Company; Check No. 767 of Security Building and Loan Association, dated January 3, 1931, for \$102.65, payable to Arizona Title Guaranty & Trust Company, drawn on Commercial National Bank, Phoenix, signed by D. H. Shreve and E. F.

(Testimony of Miss E. F. Young.)

Young, endorsed Arizona Title Guaranty & Trust Company; Check No. 914 of Security Building and Loan Association, dated February 11, 1931, for \$96.60, payable to Arizona Title Guaranty & Trust Company, drawn on Commercial National Bank, Phoenix, signed by D. H. Shreve and E. F. Young, endorsed Arizona Title Guaranty & Trust Company; Check No. 5 of Security Building and Loan Association, dated February 24, 1930, for \$3503.30, payable to Commercial National Bank, drawn on First National Bank of Prescott, signed A. C. Shreve and E. F. Young, endorsed Commercial National Bank, Phoenix; Check No. 7 of Security Building and Loan Association, dated February 26, 1930, for \$1000.00, payable to H. H. Askew and R. C. Pickrell, drawn on First National Bank of Prescott, signed A. C. Shreve and E. F. Young, endorsed H. H. Askew and R. C. Pickrell; Check No. 12 of Security Building and Loan Association, dated May 15, 1930, for \$20.70, payable to Pinal County Title & Trust Company, drawn on First National Bank of Prescott, signed A. C. Shreve and E. F. Young, endorsed Pinal County Title & Trust Company; Check No. 5072 of Security Building and Loan Association, dated May 14, 1930, for \$33.05, payable to [308] Phoenix Title & Trust Company, drawn on Citizens State Bank, Phoenix, signed D. H. Shreve and E. F. Young, endorsed Phoenix Title & Trust Company; Check No. 110 of Security Building and Loan Association, dated

(Testimony of Miss E. F. Young.)

February 20, 1930, for \$3000.00, payable to Century Investment Trust, drawn on Commercial National Bank, Phoenix, signed by A. C. Shreve and E. F. Young, endorsed Century Investment Trust by E. F. Young; Check No. 122 of Security Building and Loan Association, dated February 26, 1930, for \$300.00, payable to H. H. Askew and R. C. Pickrell, drawn on Commercial National Bank, Phoenix, signed by A. C. Shreve and E. F. Young, endorsed by H. H. Askew and R. C. Pickrell.

Government's Exhibit 109 was admitted in evidence.

GOVERNMENT'S EXHIBIT 109,

which, abstracted to the issue, is in full substance as follows: Five checks issued by Security Building and Loan Association, No. 1173, dated April 7, 1931, for \$1950.00, payable to Century Investment Trust, drawn on Commercial National Bank, Phoenix, signed by R. F. Watt and E. F. Young, endorsed Century Investment Trust; No. 1281, dated May 15, 1931, for \$119.70, payable to Arizona Title & Trust Company, drawn on The Arizona Bank, Phoenix, signed by R. F. Watt and E. F. Young, endorsed Arizona Title & Trust Company; No. 1332, dated June 3, 1931, for \$300.00, payable to Chas. Airheart, drawn on The Arizona Bank, Phoenix, signed by R. F. Watt and E. F. Young, endorsed C. Airheart, Chas. A. Airheart, Mohawk, Ariz.; No. 1420, dated July 2, 1931, for \$100.00, payable to Chas. Airheart, drawn on The Arizona Bank,

(Testimony of Miss E. F. Young.)

Phoenix, signed by R. F. Watt and E. F. Young, endorsed Chas. Airheart, Mohawk, Ariz.; No. 1562, dated August 4, 1931, payable to Ethel M. Williams, for \$140.00 drawn on The Arizona Bank, Phoenix, signed by R. F. Watt and E. F. Young, endorsed Ethel M. Williams.

Mr. Peterson: We offer in evidence Government's Exhibit 110, a series of sixty-three slips. [309]

Mr. Hardy: Those have been withdrawn which have not been identified?

Mr. Peterson: Yes.

Mr. Hardy: We object to the introduction of this exhibit, No. 110 marked for identification, for the reason that none of the items in said exhibit appears to be transactions by these defendants on trial; and for the further reason that no proper foundation has been laid for its admission, and for the further reason it is irrelevant, incompetent and immaterial.

The Court: The objection is overruled.

Mr. Hardy: Exception.

Government's Exhibit 110 was admitted in evidence.

GOVERNMENT'S EXHIBIT 110,

which, abstracted to the issue, is in full substance as follows: Series of Debit and Credit Tickets of Security Building and Loan Association, all signed by E. F. Young, as follows: Jan. 2, 1930, credit Coml National Bank \$2500, check #80 drawn in San Diego; Feb. 8, 1930, credit First National Bank

(Testimony of Miss E. F. Young.)

Prescott \$2000; Feb. 20, 1930, Credit Commercial Natl Bank, Check No. 110 \$3000.00, Check No. 111 \$175.00; Check No. 112 \$500.00, Total \$3675.00; Feb. 24, 1930, credit First National Bank Prescott, Check No. 5 \$3503.30, Check No. 6 \$500.00, Total \$4003.30; Mar. 1, 1930, credit Commercial Natl Bank \$899.00; Mar. 10, 1930, credit Real Estate Loans, Loan No. 12, \$2500.00; Mar. 21, 1930, credit Incomplete Loans, Krotzer, Loan No. 16, \$4200.00; Apr. 10, 1930, credit Commercial Natl Bank, R. A. York Loan No. 19, \$260.28; Apr. 11, 1930, credit Commercial Natl Bank \$3576.00; Apr. 11, 1930, credit Loans Repaid, loan interest received, No. 15, \$2626.00; Apr. 12, 1930, credit Citizens State Bank, Incomplete Loans \$1600.00; Apr. 12, 1930, credit Commercial Natl Bank, Incomplete Loans, \$300.00; Apr. 15, 1930, credit Citizens State Bank, Incomplete Loans \$191.60; [310] Apr. 15, 1930, credit (Comm) Fees on Loan No. 18, \$225.00, and R. A. York Loan No. 19, \$260.00, Total \$485.00; Apr. 15, 1930, credit Loans Repaid Loans No. 14, \$2500.00, Loan interest \$27.78; Apr. 15, 1930, credit Commercial Natl Bank, Incomplete Loans, Fordham No. 18, \$356.18; May 2, 1930, Commercial Natl Bank, \$360.00; May 5, 1930, credit Loans Repaid, Fordham No. 20, \$24.04, interest on loans \$37.57, Total \$61.61; May 8, 1930, credit Commercial Natl Bank, Incomplete Loan \$1800.00; May 14, 1930, credit Citizens State Bank, \$233.05; May 15, 1930, credit Loans Repaid No. 13, \$4750.00; May 15, 1930, credit Interest on Loans No.

(Testimony of Miss E. F. Young.)

13, \$185.80; June 6, 1930, credit R. E. Loans Repaid, R. A. York No. 19, \$72.00, Interest \$68.00, Total \$140.00; Aug. 28, 1930, credit R. E. Loans Repaid, R. A. York No. 19 \$35.27, Loan interest received \$34.73, Total \$70.00; Sept. 8, 1930, credit R. E. Loans Repaid Loan No. 28, \$13.75, Loan interest received, \$46.25, Total \$60.00; Sept. 25, 1930, R. E. Loans Repaid \$35.52, Interest \$34.48, Total \$70.00; Sept. 27, 1930, credit R. E. Loans Repaid, Rayburn No. 27, \$58.61, Interest \$67.49, Total \$126.10; Sept. 27, 1930, credit R. E. Loans Repaid, Rayburn No. 26, \$56.56, Interest \$60.54, Total \$113.10; Dec. 15, 1930, credit Commercial Natl Bank \$8100.00; Mar. 6, 1931, credit Incomplete Loans, Penney No. 53, \$7000.00; Mar. 6, 1931, credit Incomplete Loans, Van Dyke No. 52, \$1500.00; Apr. 16, 1931, R. E. Loans Repaid, Van Dyke No. 52, \$7.50, Interest on Loans \$12.50, Total \$20.00; Receipt No. 5958, dated February 8, 1930, for \$2000.00, issued by Security Building and Loan Association and charged to account of A. B. Heinsbergen, with notation "Draft attached"; Series of Debit Tickets, as follows: Feb. 25, 1930, debit Loans secured by real estate, Loan No. 9, 10, 11, 12, 13 and 14, credit Incomplete Loans, \$20,100; Feb. 25, 1930, debit Incomplete Loans \$15,000; Mar. 1, 1930, debit Incomplete Loans, D. G. Peter, \$5100; Mar. 10, 1930, Tucson office, \$2312.50; Mar. 21, 1930 debit Incomplete Loans to take up Loan No. 11 (Krotzer), \$2750.00, Incomplete loans paid by cash from

(Testimony of Miss E. F. Young.)

drawer, \$1420.50, Total \$4170.50; Mar. 21, 1930, debit R. E. Loans Incomplete, Loan No. 16 (Krotzer), [311] \$4200; Apr. 11, 1930, debit Incomplete Loans, R. A. York No. 19, \$5026; Apr. 12, 1930, debit Incomplete Loans, Fordham No. 18, McCrary No. 17, \$1900.00; Apr. 15, 1930, debit Incomplete Loans, Fordham No. 18, \$3177.78; Limberg No. 20, \$85.00, Krotzer, No. 16, \$8.80, Total \$3271.58; May 2, 1930, debit Incomplete Loans, Limberg No. 20, \$360.00; May 8, 1930, debit Incomplete Loans, Limberg No. 20, \$1800; May 14, 1930, debit York Loan No. 19, Incomplete Loans, Phoenix Title & Trust Co. Expense \$33.05; May 14, 1930, debit Sunset Building and Loan Association, Proceeds of 10-year coupon certificates No. A-101 to A-105 inclusive, \$10,000; May 15, 1930, debit Incomplete Loan, Krotzer No. 16 \$20.70, Fordham No. 18 \$30.28, Limberg No. 18 \$4935.80, Owen No. 21 \$500.00, Total \$5486.78; Aug. 28, 1930, debit Incomplete Loans, Rayburn No. 27, check No. 382, Century Investment Trust \$3000.00; Sept. 16, 1930, debit Incomplete Loans, No. 28, Wilbar, \$125.70; Dec. 27, 1930, debit Incomplete Loans, A. W. York No. 37, \$650.00; Dec. 27, 1930, debit Shumway Loan No. 38, \$7000.00; Jan. 30, 1931, debit Incomplete Loans Shumway No. 44, \$1761.20; Mar. 6, 1931, debit Loans Secured by Real Estate, Penney No. 53, \$7000; Mar. 6, 1931, debit Loans Secured by Real Estate, Van Dyke No. 52, \$1500.00; Mar. 17, 1931, debit Loans Secured by Real Estate, Van Dyke No. 52, \$51.38; Deposit slips issued by Security Building and Loan Association

(Testimony of Miss E. F. Young.)

to Arizona Holding Corporation: No. 5618, dated Feb. 15, 1930, check M. M. Fordham \$61.60; Feb. 19, 1930, check \$56.31; May 26, 1930, \$92.42, M. M. Fordham; Feb. 5, 1931, check M. M. Fordham, \$98.05; Apr. 11, 1930, \$121.48; adding machine tabulation of cash items 4-12-30, total \$12,993.03; deposit slip No. 5226, Century Investment Trust, dated Sept. 16, 1930, \$125.70.

Mr. Peterson: We offer at this time Government's for identification 111-A and 111-D.

Mr. Hardy: You don't offer the whole exhibit?

Mr. Peterson: No, 111-A and 111-D at this time. The others were just marked for identification.

Mr. Hardy: Object to the introduction of those [312] two parts of the Exhibit 111 for identification, for the reason that no proper foundation has been made for their admission, and the further reason that it appears from said exhibits that neither of the defendants on trial had anything to do with them; the further reason they are incompetent, irrelevant and immaterial.

The Court: Overruled.

Mr. Hardy: Exception.

Government's Exhibits 111-A and 111-D were admitted in evidence.

GOVERNMENT'S EXHIBIT 111-A,

which, abstracted to the issue, is in full substance as follows: Check No. 810, dated January 13, 1931, for \$1000.00, issued by Security Building and Loan

(Testimony of Miss E. F. Young.)

Association to Century Investment Trust, drawn on Commercial National Bank, Phoenix, signed by E. F. Young and R. F. Watt, endorsed Century Investment Trust.

GOVERNMENT'S EXHIBIT 111-D,

which, abstracted to the issue, is in full substance as follows: Check No. 879, dated February 2, 1931, for \$350.00, issued by Security Building and Loan Association to Jas. M. Shumway, drawn on Commercial National Bank, Phoenix, signed by R. F. Watt and E. F. Young, endorsed Jas. M. Shumway, R. F. W., and Century Investment Trust.

Mr. Peterson: We offer at this time Government's Exhibit 112 for identification in evidence.

Mr. Hardy: We object to the introduction of this exhibit for the reasons made to the introduction of Government's Exhibit No. 109.

The Court: The same ruling.

Mr. Hardy: Exception. [313]

Government's Exhibit 112 was admitted in evidence.

GOVERNMENT'S EXHIBIT 112,

which, abstracted to the issue, is in full substance as follows: Check No. 160, dated December 4, 1930, for \$3000.00, issued by Security Building and Loan Association, by R. F. Watt and E. F. Young, to A. W. York, drawn on Commercial National Bank, Phoenix, endorsed A. W. York "R. F. W.", Arizona Holding Corporation by R. F. Watt, Century Investment Trust.

JOHN C. HOBBS,

called as a witness on behalf of the Government, testified:

I reside in San Diego. I came to Arizona in 1908 and I lived in Arizona from 1908 until 1923. I returned to Arizona in 1928 until 1931. I came from San Diego with Glen Perkins. The purpose of my coming was to get into business in Tucson. We set about organizing, or at least selling stock in the Arizona Holding Corporation. At the time I came to Tucson the Arizona Holding Corporation was already organized. They had a charter and permit to sell stock. In the original organization L. C. James was President, I think Dr. Morris, Dr. Thomas, Ben Mathews and Mr. James composed the Board of Directors. I helped to sell stock there in the Arizona Holding Corporation. I know the defendants J. H. Shreve and Archie Shreve. I first met J. H. Shreve in the early part of 1929, as I recall, either in Tucson or San Diego. I first met A. C. Shreve in Tucson. The Arizona Holding Corporation was organized for the specific purpose of selling stock and raising \$50,000, which was the sum necessary to secure a charter for the Building & Loan Association. I think I had a conversation in Tucson with J. H. Shreve relative to the Arizona Holding Corporation. He first became interested in that company in the early part of 1929. Actually the bank account was something in excess of \$50,000. It included \$35,000 that people had subscribed through [314] the purchase of stock, and included

(Testimony of John C. Hobbs.)

\$15,000 that the directors, Dr. Morris, Dr. Thomas and Mr. James had borrowed to fulfill their agreement with Mr. Perkins and me, their agreement being that when we had \$35,000 in the bank they would put in the rest of the money to make up the \$50,000. Later J. H. Shreve paid off the \$15,000 note. I delivered the checks to the Consolidated Bank and obtained the note. J. H. Shreve asked me to take the money down to the bank and get the note. I talked to J. H. Shreve or A. C. Shreve at a later date with regard to the formation of the Building & Loan Association. Immediately we had the money we set about the business of getting a charter. I can't recall as to the date, but it followed in its natural sequence. The offices of the Arizona Holding Corporation was in the Santa Rita Hotel building in Tucson. After the Security Building & Loan Association was organized its office was in the Santa Rita Hotel building. I did not have any stock or interest in the Arizona Holding Company, that I know of. I believe I was an officer or director of that company. With regard to attending directors' meeting, there were conferences, but I would not call them formal directors' meetings. I was never notified of a formal directors' meeting. After the Security Building and Loan Association was formed I was employed there and remained until it closed. It was understood that I was to remain in the Security Building & Loan Association at Tucson, under Mr. Cash, and that I should apply myself

(Testimony of John C. Hobbs.)

and learn the business and put myself in a position to manage that office. I should say that J. H. Shreve employed me at that time. Mr. Cash was employed at the same time. He came from San Diego and was there several months. I can't recall the exact date. I was supposed to solicit accounts, Building & Loan accounts, help in the office, learn the routine of keeping the records, and do anything that might further the business. I recall that I was issued one or more shares of the capital stock of the Security Building & Loan Association, for the purpose of qualifying me as a director. I immediately endorsed the certificate [315] and simply left it in the office. I was first an Assistant Secretary and subsequently a director of the Security Building & Loan Association. I think I was a Vice-President at the time it closed. With respect to attending directors' meetings of the Building & Loan Association, we had numerous conferences, but there were no formal meetings of directors. I remember a Mr. Beach being in Tucson. Government's Exhibit 75 for identification is principally the minute book of the Security Building & Loan Association. I think I signed some of the minutes of some meetings of the directors of the Security Building & Loan Association. There are a number of minutes of meetings in that book that I signed. I recognize the signatures of others in that book that I signed. I recognize the signatures of others in that book who signed the minutes of meetings. I recognize W. C. Evans,

(Testimony of John C. Hobbs.)

J. G. Cash, J. H. Shreve, Glen O. Perkins, A. C. Shreve, R. F. Watt and John C. Hobbs. With respect to attending meeting of the board of directors at Phoenix, of the Security Building & Loan Association, I attended numerous conferences and meetings pertaining to the business. I never attended a directors' meeting that was called as a Directors' meeting. I signed minutes that were sent to me as purported directors' meetings at Phoenix. I signed those in Tucson and placed them in the minute book of the meetings which were forwarded to me from Phoenix. I think J. H. Shreve was the first President of the Security Building & Loan Association. Mrs. Fricke worked for the Security Building & Loan Association at Tucson as book-keeper. After Mr. Cash left I was in supervision of the Tucson office, and Mrs. Fricke worked under me. It was my job to see that the proper entries were made from day to day in the books of the Security Building & Loan Association at the Tucson office. Those books were kept in the regular course of business. I was there from the start of the Security Building & Loan Association. Mr. Cash was there when we started and remained several months. Mr. Cash opened the books. After he left I kept them and then Mrs. [316] Fricke came in, and from that point on she kept them. Mrs. Fricke remained there until the Building & Loan Association closed in Tucson. I recognize the last half of the book being Government's Exhibit 71 for identi-

(Testimony of John C. Hobbs.)

fication, as a record or account of the Tucson office. I recognize these entries because I made some of them. Mrs. Fricke made some of them and some were made by Mr. Cash. I recognize two sections of Government's Exhibit 73 for identification as the records of the Tucson office. Part of Government's Exhibit 77 for identification are records of the Tucson office of the Security Building & Loan Association. These records were kept in the Tucson office. I think part of Government's Exhibit 78 for identification are records of the Tucson office of the Security Building & Loan Association. I feel certain they are. When the business of the Security Building & Loan Association started J. H. Shreve was my superior and subsequently A. C. Shreve and D. H. Shreve. Any one of the three that were present. I say that is true. Before the Building & Loan Association closed I made a trip to San Diego, by airplane. I think it was about a month before the Building & Loan Association closed. Glen Perkins was with me.

Mr. Peterson: Who met you there?

Mr. Hardy: Now we interpose a further objection, that the trip occurred subsequently to October 24, 1931, the last date of the letter named in the indictment, therefore, it would be wholly irrelevant and immaterial.

The Court: It might be, go ahead.

Mr. Hardy: Exception.

The witness continuing: J. H. Shreve and A. C. Shreve met me. I had a conversation with them

(Testimony of John C. Hobbs.)

there at that time which was to the effect that business conditions all over the country were poor, that we had over here a number of requests for withdrawals; it was in view of the situation as a whole, it was perhaps [317] best to liquidate the Building and Loan Association. I am not certain that I was requested to sign anything at that time.

Mr. Hardy: We object, your Honor.

The Court: He may answer.

Mr. Hardy: Exception.

The Witness: I am not certain that I was requested to sign anything at that time.

Q. (Mr. Peterson) Were you later requested to sign anything?

Mr. Hardy: Object to that, your Honor, because it is too general, "sign anything".

Mr. Peterson: Well, were you requested——

The Court: (Interrupting) Well, if he were asked what he was asked to sign, you would object to that because it was leading.

Q. (Mr. Peterson) Were you requested to sign anything, Mr. Hobbs?

Mr. Hardy: Exception.

Some time I was requested to sign a schedule in bankruptcy. I think that was shortly before the time the Building & Loan Association closed. We had requests for withdrawals and in all cases we were not able to fill the requests. We didn't have the money. Quite often during the course of the time I was there we transferred funds back and forth from

(Testimony of John C. Hobbs.)

the Phoenix office. There might have been requests for funds from the Phoenix office shortly before the Building & Loan Association closed. We did not get any great amount from the Phoenix office. Government's Exhibit 113 for identification being 31 slips, are a part of the records of the Tucson office of the Security Building & Loan Association, kept in the regular course of business.

Q. Do you recall, Mr. Hobbs, who asked you to sign the bankruptcy schedule?

Mr. Hardy: We object to that, your Honor, [318] unless the time is fixed.

The Court: Well, thirty days before the Building & Loan closed, I suppose, is that correct, Mr. Hobbs?

A. Well, our trip to San Diego was, I should say, thirty days or so before we closed.

Q. When were you asked to sign this schedule?

A. I can't fix that time definitely in my mind, but I know I was asked to sign the schedule about the time that the Building and Loan Association went into bankruptcy.

Q. (Mr. Peterson) And you recall who requested you?

Mr. Hardy: I object to that, your Honor, now, because the day is not definitely fixed and the schedule itself would be the best evidence.

The Court: Well, maybe he didn't sign it.

Mr. Peterson: He said he didn't sign it.

Mr. Hardy: For the further reason, it does not appear it was before October 24th, 1931.

(Testimony of John C. Hobbs.)

The Court: He may answer.

Mr. Hardy: Exception.

The Witness: I am not certain. It was either J. H. Shreve or Dan. It might have been Archie, I don't know.

I did not sign the bankruptcy schedule. I recognize the signature on Government's Exhibit 114 for identification. It is my belief that that was a part of the records of the Tucson office of the Security Building & Loan Association. I have seen it there. I recognize the signature on Government's Exhibit 115 for identification. I think it is a part of the records of the Tucson office of the Security Building & Loan Association. I have seen it there. I recognize the signature on Government's Exhibit 116 for identifica- [319] tion. That is a part of the records of the Tucson office of the Security Building & Loan Association. I recognize the signature on Government's Exhibit 117 for identification. It is a part of the records of the Tucson office of the Security Building & Loan Association. Government's Exhibit 118 for identification is a part of the files of the Tucson office of the Security Building & Loan Association.

Mr. Peterson: We, at this time, offer Government's Exhibit 113 for identification in evidence.

Mr. Hardy: You are offering them as one lot, Mr. Peterson?

Mr. Peterson: Yes, 31 slips.

Mr. Hardy: (On voir dire examination) All of these items embraced within this exhibit are in my

(Testimony of John C. Hobbs.)

handwriting. I don't know at whose direction these items were made by me.

Mr. Hardy: We object, your Honor. It is not material. The witness testified they were made in the regular course of business. That is not sufficient identification of them. That is merely a conclusion of the witness.

The Court: Well, he made them when they were a part of the records of that concern. That ought to be sufficient identification.

Mr. Hardy: I hand you this item here, marked Account 115, June 24th, 1931, which appears to be a withdrawal ticket of \$686.72. Did you make that notation or endorsement upon the back of it?

A. I did, yes, sir.

The Court: Well, this seems to be cross examination of the witness after they are admitted.

Mr. Hardy: Well, they have been offered in evidence. [320]

The Court: Well, they have not been admitted yet. When they are admitted, you can cross examine the witness on it.

Mr. Hardy: I understood I would have the opportunity to examine the witness with respect to the documents or items before they were admitted.

The Court: Just for identification, that is all.

Mr. Hardy: Very well, your Honor. We object to the admission.

Mr. Peterson: Has your Honor ruled on the admissibility?

(Testimony of John C. Hobbs.)

The Court: No. You have offered them?

Mr. Peterson: Yes.

The Court: Now counsel can make his objection and then I will rule, if he wants to object.

Mr. Hardy: I do want to object, your Honor, if I am permitted to object.

The Court: Yes, go ahead, Mr. Hardy.

Mr. Hardy: I object to the introduction of the Exhibit for the reason that no foundation has been laid for their admission as against these defendants on trial, and for the further reason that they are hearsay, irrelevant, immaterial and incompetent.

The Court: Overruled.

Mr. Hardy: Exception.

Government's Exhibit 113 was admitted in evidence.

GOVERNMENT'S EXHIBIT 113,

which, abstracted to the issue, is in full substance as follows: Series of credit and debit slips, as follows: June 21, 1931, rent [321] paid by Arizona Holding Corporation, \$600.00; June 24, 1931, Phoenix office, account withdrawal Account No. 115, \$2680.76; June 24, 1931, Incomplete Loans Loan No. 24, \$15,625.00; June 24, Interest received account accrued interest on Loans No. 7 and No. 11, \$847.85; June 24, fees on Loan No. 24, \$468.75; June 24, 1931, cash account to remove O. H. Robson check, \$80.92; June 24, 1931, Arizona Holding Corporation, \$4477.48, balance \$4600.97; June 24, 1931, R. E.

(Testimony of John C. Hobbs.)

Loans Repaid Nos. 7 and 11, \$8500.00; July 16, 1930, Century Investment Trust, \$250.00; Feb. 3, 1930, Arizona Holding Corporation, \$41.66; Feb. 3, 1930, credit Century Investment Trust \$2500.00, balance \$2852.25, Robson mtg.; Feb. 18, 1930, Arizona Holding Corporation, \$20.80, paid two notes of \$10.00 each and 80¢ interest; Feb. 8, 1930, fees and commissions account fees on Robson \$2500.00 mtg., \$187.50; Feb. 18, 1930, Interest received account, interest on Overland mortgage Dec. 21, 1929, \$600.00; Mar. 3, 1930, Interest received account, Robson mtg., \$186.68; June 24, 1931, Salaries other officers, paid by Arizona Holding Corp., \$510.00; June 24, 1931, Advertising and Publicity, paid by Arizona Holding Corp., \$686.72; June 16, 1930, Interest received account, Robson mtg., \$40.00, Robson mtg., \$33.34, total \$73.34; Series of debit slips: June 24, 1931, Real Estate Loans, No. 24, \$15,625.00; June 24, 1931, Incomplete Loan, No. 24, \$4477.48; June 24, 1931, Incomplete Loans No. 24, \$80.92; June 24, 1931, Incomplete Loans, No. 24, \$8500.00; June 24, 1931, Incomplete Loans, No. 24, \$847.85; Feb. 3, 1930, Loans Real Estate, Robson mtg., \$2500.00; Withdrawal Account No. 115, June 24, 1931, signed Arizona Holding Corporation by John C. Hobbs, to Security Building and Loan Association, \$2680.76, balance \$123.49; Withdrawal Feb. 18, 1930, Charge to Account No. 59, \$600.00, Century Investment Trust, balance \$1581.75, noted on back: Withdrawal to pay interest on Overland loan, Interest paid to Dec. 21, 1929; Feb. 18, 1930, Charge to Account No.

(Testimony of John C. Hobbs.)

59, Century Investment Trust, \$187.50, balance \$2181.75, noted on back: "Credit to fees and comm. account", on Robson mtg. of \$2500.00; June 24, 1931, Charge [322] to Account No. 115, \$600.00, Arizona Holding Corporation by J. C. Hobbs, balance \$3490.97; June 24, 1931, Charge to Account No. 115, \$510.00, Arizona Holding Corporation by J. C. Hobbs.

The witness continuing: I have seen the pamphlet, being Government's Exhibit 119 for identification, in the Tucson office of the Security Building & Loan Association. They were distributed to anybody that came into the office, just handed them out to people as advertising matter. Government's Exhibit 120 for identification is another pamphlet we kept on the counter and distributed to customers or anyone else. Government's Exhibit 121 for identification, which is similar to the 119, is the type that was distributed there in the office. I have seen pamphlets similar to Government's Exhibit 122 for identification. Those were distributed to customers, and also pamphlets similar to Government's Exhibit 123 for identification.

Thereupon counsel for the Government offered in evidence Government's Exhibits 119, 120, 121, 122 and 123 for identification, and the Court sustained the following objection to their admission:

Mr. Hardy: Object to the receipt of the exhibits offered for identification in evidence, for the reason that none of them are referred to in the indictment

(Testimony of John C. Hobbs.)

in this case, and therefore irrelevant, incompetent, and immaterial.

The witness continuing: We made three copies of daily reports of the Security Building & Loan Association. One we kept in the Tucson office, one we mailed to the office at Phoenix, and one to San Diego. The ones mailed to San Diego were in self-addressed envelopes. I remember the address only. It was 546 B Street, San Diego.

Cross Examination

I know that the last portion of book marked General Ledger of the Security Building & Loan Association, which is Government's Exhibit 71, was kept in our office in Tucson, by Mrs. Fricke. [323] Maybe some of the entries were made by me. I made some entries in the records before Mrs. Fricke came in, also Mr. Cash. Mr. Cash opened the books. It was my job to follow him and get the routine of keeping the books, which I did, and before Mr. Cash left began making entries myself and after he was gone I continued to make them until Mrs. Fricke came into the office. I do not believe anyone else made entries in this book pertaining to business of the Security Building & Loan Association beside Mr. Cash, Mrs. Fricke and myself. The entries in this ledger are the consolidated entries of both the Tucson office and the Phoenix office. That particular binder was a binder in the Phoenix office. Our binders are the red binders. Mrs. Fricke put entries

(Testimony of John C. Hobbs.)

into this ledger which pertains to business of the Tucson office. I am talking about the binder, that that binder was in our office, but those last sheets are the records that were formerly kept in one of those red bound binders and kept in the Tucson office. I don't know whether I see that red bound binder of which I am now testifying in the court room. I judge it would be one of the two binders there on the bench (Indicating documents on counsel table.) I don't know who put these pages in this general ledger pertaining to the business of the Tucson office. These entries appearing in this ledger, Government's Exhibit 71 for identification, are not all of the entries. All those pages are a part of the records of the Tucson office. Some were the control account, that is, I have testified we sent a statement to the Phoenix office each day and they sent us one each day, and the two statements were combined, that is, statements for the transactions of the current day were combined and kept in what we called the control account. At least a portion of the control account which Mrs. Fricke kept is in this first section. Some portions of the control account which was kept in the Tucson office came from the report of the previous day's business from the Phoenix office. You can see they are inserted under the volume headed "Reference", "T" and "P", Tucson and Phoenix. [324] For instance, on page entitled "Interest on Loans", under the division headed "Reference", there is a "T" standing for

(Testimony of John C. Hobbs.)

Tucson, and a "P" standing for Phoenix, and so on down that column for the remainder of that page. Those entries were made in the Tucson office. I recall the Security Building & Loan Association was organized, I believe, in October, 1931. The Security Building & Loan Association was adjudicated a bankrupt after that date. I don't remember what year, whether it was three or five months. It was several months afterwards. It was in 1929 when I came from San Diego to Tucson with respect to the organization of the Arizona Holding Corporation. Mr. Perkins was in Tucson and on one of his trips back to San Diego, I came to Tucson with him. The Arizona Holding Corporation was already organized when I came from San Diego to Tucson with Mr. Perkins in the fall of 1928. The Security Building & Loan Association was organized in March, 1929. It was shortly before the date of the granting of the charter that I first discussed the Arizona Holding Corporation or the Security Building & Loan Association with Mr. J. H. Shreve. Previous to that time Mr. Cusick, an attorney in Tucson, and myself, had been in Phoenix to consult with the Bank Examiner with regard to organizing the Building & Loan Association. I had not discussed that matter with Mr. Shreve at that time. We went to Phoenix and talked to the Superintendent of Banks about the charter, how to proceed, before Mr. Shreve came in. Mr. Perkins and I sold sufficient stock in the Arizona Holding Corporation

(Testimony of John C. Hobbs.)

to raise approximately \$50,000 and that money was deposited in banks. I don't know whether it was all in one bank or not. They had some money when I came down, but the money was in the banks at that time, as a result of the sale of stock of the Arizona Holding Corporation. There were a number of people engaged in the selling of the stock besides Mr. Perkins and myself before I came down, and there were various people engaged in the selling of the stock after I came down. I had known Mr. L. C. James, Dr. C. A. Thomas and Dr. Bascom Morris before I came [325] to Tucson in 1928, while I was a student at the University of Arizona. Mr. Perkins had discussed the organization of the Arizona Holding Corporation and the Building & Loan Association with those gentlemen before I came to Tucson. I testified that Mr. James, Dr. Morris and Dr. Thomas signed a note at the Consolidated National Bank, for the purpose of borrowing \$15,000, which was to be used in conjunction with the \$35,000 to raise a sum of \$50,000 required as a deposit by the State Treasurer for the purpose of obtaining a Building and Loan charter. It developed that the \$15,000 could not be used until they had paid the note. The bulk of the money was in the Consolidated National Bank at Tucson but I do not know what the exact distribution was. Some difficulty arose with respect to using the money represented by that \$15,000 note. Our agreement was that when we got \$35,000 in the bank, Mr. James, Dr.

(Testimony of John C. Hobbs.)

Morris and Dr. Thomas would put in \$5,000 each, to bring it up to the required \$50,000 to get the charter. We felt that we had complied with our part of the bargain when we had the \$35,000 in the bank, and we attempted, of course, to get the other men to put their money in, and they finally did by borrowing the money, and it later developed, after the money was in the bank, that we could not use it all because the bank would not release the \$50,000 until the \$15,000 note was paid, or three notes of \$5,000 each, I think it was. The result was we didn't have control of the \$50,000 deposit with the State Treasurer. Then Mr. Perkins and I started looking for somebody to put the money in. We discussed the question among ourselves. I don't remember when we originally contacted any of the Shreves but I know that we explained the situation, put the proposition up to them, and I know that Jesse Shreve came to Tucson and handed we three \$5,000 cashier's checks. I took those checks to the Consolidated National Bank and picked up the notes and returned them to Mr. James. Mr. Perkins and I approached Mr. Shreve in regard to that. Mr. J. H. Shreve came into the picture, put up the \$15,000 paid the note to the bank, and that gave us [326] \$50,000 capital which was necessary. I didn't know Mr. Shreve until after he came to Tucson. I found out afterwards he was connected with the Building & Loan Association in San Diego. After Mr. Shreve paid this note at the Consolidated National Bank, I

(Testimony of John C. Hobbs.)

believe, Mr. James, Dr. Morris and Dr. Thomas simultaneously severed their connection with the Arizona Holding Corporation. From that time forward they did not take any active interest in connection with the Arizona Holding Corporation or the Security Building & Loan Association, to my knowledge. Eventually the Security Building & Loan Association was organized and an office was opened in Tucson. It was my understanding at that time that the hotel was either owned or controlled by Mr. J. H. Shreve. J. G. Cash was placed in charge of the office at Tucson. He came over from San Diego. At that time I do not think I had a title. I was helping Mr. Cash. I did go in the office as an employee of the organization. Probably a few months Mr. Perkins was also in the office at Tucson. After the office in Phoenix was opened Mr. Cash and I were there alone. After the office was opened in Tucson it was decided to open an office in Phoenix. Mr. Cash was in active charge of the Tucson office at the time it was opened. After Mr. Cash left I was in active charge at Tucson. Mr. Perkins left the Tucson office and went over to the Phoenix office at the time it was opened. I think his duty was to go out and drum up new business, to get deposits, to do anything in the interests of the business, the same as I was doing at Tucson, or was trying to do. The only recollection that I have with regard to the preparation and signing of the schedules in bankruptcy of the Secur-

(Testimony of John C. Hobbs.)

ity Building & Loan Association is that about the time the bankruptcy matter came up, or it may have been before the time it came up, I was requested to sign the schedule in bankruptcy. I knew it was in quite a few of the courts, I don't know exactly what the sequence was. It was shuffled from one court to another. I do not recall the date Dan Shreve came over from San Diego to take charge of the [327] Building & Loan Association. I know that Dan came down when Archie left down there. I don't know whether that was in 1929 or 1930.

Q. And from and after that date, Dan Shreve was then in complete control of the Building & Loan Association?

Mr. Flynn: Object to that as calling for a conclusion, your Honor, and not a statement of the facts.

Mr. Hardy: It is cross examination of the witness.

The Court: It may stand.

The Witness: What was the question?

(The question was read by the reporter.)

Mr. Peterson: We renew our objection, your Honor, because that calls for a conclusion of the witness.

The Court: Well, you can find out about it when he gets through.

The Witness: Well, he was in charge of the Building & Loan Association down there, yes, sir.

(Testimony of John C. Hobbs.)

Mr. Hardy: From the time that he came over here from California?

A. That is, he was in charge in the sense that I personally looked to him in the main for my instructions.

Q. And he personally gave you your instructions in connection with the conduct of the business from the time he came over?

A. That is right.

Q. After Dan Shreve came over, did either Mr. J. H. Shreve or A. C. Shreve give you any further instructions in connection with the conduct of [328] the business?

A. Oh, I don't know that I can cite you a specific example of instructions that were given to me by them, no.

The witness continuing: Withdrawals from the Building & Loan Association commenced at different times. It seems to me it was quite a long time. I don't know, it was maybe a month, forty days, two months, I don't know exactly. These withdrawals were greater than the deposits. We were required to close the Building & Loan Association because we were out of money.

Redirect Examination

The notes of Dr. Morris, Mr. James and Dr. Thomas were paid off at the time Mr. J. H. Shreve came into the Arizona Holding Corporation. I delivered the notes to L. C. James. J. H. Shreve and A. C. Shreve came to Tucson from time to time

(Testimony of John C. Hobbs.)

after Dan Shreve took charge of the Phoenix office. They would come into the office and I had many conferences with both J. H. Shreve and A. C. Shreve, but I could not attempt to state the time of those conferences.

Recross Examination

I know that J. H. Shreve and A. C. Shreve were in Tucson occasionally in connection with the operation of the Santa Rita Hotel, and at those times when they were over there, they did drop into the office and see me and other people, in an incidental manner, on their trips over to Tucson in connection with their hotel business.

Redirect Examination

There were numerous times when we conferred about the business of the Building & Loan Association.

META HARRINGTON,

called as a witness on behalf of the Government, testified:

I reside in Tucson. I know the defendants J. H. Shreve [329] and A. C. Shreve. I formerly lived in San Diego. I was acquainted with the Security Building and Loan Association in the year 1929. I was employed by that Association, by Mr. J. H. Shreve, and came over to Phoenix from San Diego. I was supposed to be manager, bookkeeper and

(Testimony of Meta Harrington.)

stenographer. I kept the books of the Phoenix office. I went to work in November, either the 23rd, until January 6th, 1930, from the opening of the Phoenix office of the Security Building & Loan Association until January, 1930. I think Miss Young succeeded me as bookkeeper. I kept the books of the Phoenix office of the Security Building & Loan Association during that period. The entries which were made during the time I was bookkeeper were made in the regular course of business.

Cross Examination

It is the best of my recollection that Glen O. Perkins assisted me in keeping the books. Miss Young succeeded me. I don't recall a Mrs. Helen Herman from San Diego working in the Phoenix office. I don't recall the name. I did not do any work on the books of the Century Investment Trust or Arizona Holding Corporation, that I remember. It has been so long ago I don't remember.

J. G. CASH,

called as a witness on behalf of the Government, testified:

I reside at San Diego, California. I have known the defendants J. H. Shreve and A. C. Shreve a great many years. I knew them in 1929. I was familiar with the Security Building and Loan Association at Tucson. I was employed by that Associa-

(Testimony of J. G. Cash.)

tion to open the books and start the Tucson office. I came there about the first of March, 1929, and remained until September that year. I was Secretary-Treasurer of the Building and Loan. Mr. Hobbs was the Assistant Secretary and Treasurer. I think Mr. J. H. Shreve was the one I talked with about my coming over. He was the one who sent me over for that employment. During the time I was [330] employed by the Security Building and Loan Association, in keeping the books, the entries which I made were made in the regular course of business. I saw J. H. Shreve and A. C. Shreve in the offices of the Security Building and Loan Association at Tucson during the time I was working there. They came over at intervals, not frequently. I retired from that employment in September, 1929. I wrote the letter which is Government's Exhibit 124 for identification, and that is my signature. I never made any investment in any company known as Arizona Holding Corporation or the Century Investment Trust. If we had any directors' meetings of the Security Building and Loan Association while I was in Tucson, I probably attended them. I don't remember that there were any formal meetings of which I was notified that the directors would meet. The minutes would show what meetings we had. It has been nine years. I don't remember. I think probably there was one loan that I was consulted about, I mean rather I appraised the property for. I don't remember whether there was any other or not.

(Testimony of J. G. Cash.)

Mr. Peterson: I offer Government's Exhibit for identification No. 124 in evidence.

Mr. Hardy: We object for the reason that no proper foundation has been laid for its admission; that it is hearsay evidence as to the defendants now on trial, and irrelevant, incompetent and immaterial.

The Court: It may be received.

Mr. Hardy: Exception.

Government's Exhibit 124 was admitted in evidence.

GOVERNMENT'S EXHIBIT 124,

which is in full substance as follows: Letter written on Southwest Union Securities Corporation stationery, 546 B Street, Main 9141, San Diego, California, dated Sept. 25, 1929, with notation on [331] stationery, Mortgages, Insurance, Real Estate, Stocks and Bonds, as follows: "Mr. W. C. Evans, Cashier, First National Bank, Prescott, Arizona. Dear Sir: We are handing you herewith our check for \$30,000.00, on yourself, in payment of the following notes which you are now holding: J. G. Cash \$10,000.00, J. E. Shreve \$10,000.00, Glen O. Perkins \$10,000.00. The accrued interest on these three notes will be taken care of by Mr. J. H. Shreve, to whom you will kindly send all collateral securities. We are also enclosing signature card with the officers' signatures thereon. Yours very truly, Security Building & Loan Association, By (Signed) J. G. Cash, J. G. Cash Secretary."

(Testimony of J. G. Cash.)

Thereupon counsel for the Government offered in evidence Government's Exhibits 71, 72, 73, 74, 75, 77 and 78 for identification, being the books of the Security Building and Loan Association.

Under a reservation theretofore made counsel for defendant recalled R. F. Watt for cross examination with respect to said Exhibits numbers 71, 72, 73, 74, 75, 77 and 78 for identification.

R. F. WATT,

recalled to the witness stand, testified:

Cross Examination

Exhibits numbers 71, 72, 73, 74, 75, 77 and 78 for identification are all the books and records of the Security Building and Loan Association. They were kept by various employees. I made some entries in the check record, I believe, of the Phoenix office, and also in the loan ledger. However, I didn't in the main keep the books of the Building and Loan Association. At Phoenix they were kept in the main by Miss Young, and part of the work was done by Mrs. Dorothy Harrison, I believe, in the beginning. So far as I know, none of the work was done by Eva F. Hill or by Helen Herman. To the best of my knowledge, some of the headings of accounts, and possibly some of the first entries, were made by Leslie S. Evarts, [332] who, as I understand was then and is now a Certified Public Accountant re-

(Testimony of R. F. Watt.)

siding in San Diego. It has always been my understanding that he was employed to open this set of books for the Security Building and Loan Association which I have now identified. None of the entries in those books, that I know of, were made by Betty Perkins or M. W. Perkins. Mrs. Goudy wrote insurance policies for the Century Investment Trust, but I don't recall that she ever did any work for the Security Building and Loan. These books contain combined entries of the Tucson and Phoenix offices, being Government's Exhibits numbers 71 and 73 for identification. The sheets in those two books were kept separately in the Tucson and Phoenix offices. I presume they were combined under one binder under one of the receiverships. I don't know of my own knowledge. I have no way of knowing positively that all of the sheets are in those binders at the present time which were under the control of the company at the time of the receivership. I believe they are.

Q. Now, Mr. Watt, are those books and records, do they contain the original entries of the transactions appearing therein?

A. I believe that in every case there would be a supporting ticket which would be the original entry. These would be the original book entries.

Q. But there would be supporting tickets upon which the entries of those books are made?

A. I believe without exception there would be.

(Testimony of R. F. Watt.)

Q. And therefore the entries in these books are transcribed entries?

A. Yes, sir.

Redirect Examination

It is customary in this case to transcribe the records from slips made during the day and enter them in the book.

Mr. Hardy: Now, your Honor, we object to the receipt of the books in evidence identified as [333] Government's Exhibits Nos. 71, 72, 73, 74, 75, 77 and 78 for the reason that it appears from the testimony of the witnesses for the Government that the books and records embraced by those exhibits marked for identification are not books and records of original entry, and that they are not the first permanent transaction, and that these books and records reflect entries which are transcribed from other tickets, documents or memoranda. For the further reason that the books and records as to the defendants on trial are hearsay. They are secondary evidence and not the best evidence of the transactions indicated by the books. And for the further reason it has not been shown that the defendants on trial either directed, supervised or caused any of the entries in those books to be made.

The Court: Overrule the objection.

Mr. Hardy: Exception.

Government's Exhibits 71, 72, 73, 74, 75, 77 and 78 were admitted in evidence.

(Testimony of R. F. Watt.)

GOVERNMENT'S EXHIBIT 71*,

which, abstracted to the issue, is in full substance as follows: General Ledger Security Building and Loan Association, subdivided and marked Assets, Liabilities, Capital, Income, Expense—Tucson Assets, Liabilities, Revenues, Expenses. First item under Assets dated Nov. 23, 1929, account secured by loans on real estate, setting forth various accounts to various persons, including W. H. Perry, A. W. York, Loan No. 37, Shumway Loans Nos. 36 and 44, Rayburn Loans Nos. 26 and 27, York Loan No. 19, Dreyfus Loan No. 41, Arrington Loans Nos. 39 and 42. Also sets forth loans secured by stock of Association; loans secured by United States and Arizona bonds; Investment Certificates of Association and banks; Furniture and Fixtures; Supplies—Inventory; Prepaid Insurance; Items in process of [334] Collection; Cash on hand, first item dated Nov. 22, 1929; account with Commercial National Bank, Phoenix, Arizona; account with Arizona Bank; Citizens State Bank; First National Bank of Prescott; The Valley Bank, Mesa; Bank of Chandler; Mesa Agency, Globe Agency; Sunset Building and Loan Association, San Diego, California, pass-book No. 3756, first entry Nov. 22, 1929; Century Investment Trust, first entry Nov. 22, 1929; Century Investment Trust Insurance account; Century Investment Trust clock account. Liabilities: Loans secured by real estate repaid, first entry March 31, 1930; Investment Certificate pass-book shares, first entry Nov. 22, 1929; Installment Investment

(Testimony of R. F. Watt.)

Certificates Class D, first entry May 10, 1930; Installment Investment Certificates Class E, first entry March 25, 1930; Installment Investment Certificates Class F, first entry April 10, 1930; Income Certificates, first entry March 1, 1930; Full Paid Investment Coupon Certificates; Full Paid Investment Non-Coupon Certificates; entries of Tucson office Security Building and Loan Association; Notes Payable, Notes Payable to Banks, Loans Real Estate Incomplete, first entry Nov. 22, 1929, disclosing various loans to various parties including Shumway Loan No. 38, Arrington Loan No. 39, York loans Nos. 19 and 37, Rayburn Loans Nos. 26 and 27, Dreyfus Loan No. 41, and Arrington Loan No. 42; Cash, first entry Jan. 19, 1930; Escrow Account; Capital; Undivided Profits Dec. 31, 1930, \$3,176.13 (red), Undivided Profits Dec. 31, 1931, \$3,040.16, Profit and Loss Dec. 31, 1930, \$3,363.28 (red); Reserve Jan. 31, 1931, \$135.97 (red); Profit and Loss Dec. 12, 1930, \$187.15; Income, interest on loans, first item Jan. 2, 1930; Interest other than loans, first item Dec. 31, 1930; Profit and Loss Dec. 31, 1930, \$1,392.30 (red); Interest investments, real estate loans, first item Jan. 29, 1931; Fees and commissions, first item Dec. 31, 1929; fees on loans, first item Jan. 31, 1931; Fees other than loans, first item May 31, 1930; Expenses: salaries of officers, first item Dec. 31, 1930; Legal fees and salaries, first item Jan. 24, 1930; Salaries employees, first item Jan. 22, 1931; Various items [335] including accounting and auditing fees, agents commissions, rents, advertising and

(Testimony of R. F. Watt.)

publicity, taxes and licenses, interest on notes payable, interest on full-paid investment certificates, interest on full-paid investment coupon certificates, interest on full-paid interest non-coupon certificates, interest on Investment certificates pass-book, interest on monthly income certificates, telephone and telegraph, sundry supplies and expenses, insurance, postage and stamped envelopes. Revenues, expenses, title expense, donations, flowers and trimming expense, automobile expense, travel expense, prepaid insurance, accrued interest. Sundry supplies and expense, with notation "Items on this sheet transferred to detail sheets on June 13, 1930, E. F. Y." Interest on loans, interest on investments, fees on loans, other fees, salaries other than officers, control account, salaries other employees, control account, agents commissions and salaries, control account, legal fees and salaries, control account, auditors fees, control account, rent, control account, advertising and publicity, control account, taxes and licenses, control account, income discounts, control account, interest on notes payable, control account, interest on full-paid certificates, control account, interest on pass-book accounts, control account, interest paid on deposits, control account, sundry interest paid, control account, printing and stationery, control account, telephone and telegraph, control account, sundry supplies and expenses, control account, new accounts expense, control account, insurance, control account, postage and stamped en-

(Testimony of R. F. Watt.)

velopes, control account, revenue stamps, control account, title expense, control account, donations, control account, flowers and trimmings, control account, automobile expense, control account, travel expense, control account, bank service expense, cash short, control account, interest on full-paid investment certificates non-coupon, control account, expense account, Mesa Agency control account, Arizona Bank control account, Expenses Advances, control account, Prepaid Insurance control account, accrued interest receivable control account, [336] escrow account control account. Tucson office: Assets: Loans, first entry April 19, 1929; loans secured by stock in Association, first entry 6-26-30. Investment Certificates other building and loan associations, furniture and fixtures, cash account, first entry March 8, 1929; Arizona-Southwest Bank, first entry March 22, 1929; Commercial National Bank, first entry April 6, 1929; Consolidated National Bank, first entry June 1, 1929; Old Dominion Bank, first entry May 15, 1930; Phoenix office Security Building and Loan Association, first entry Nov. 23, 1929; Bisbee Agency, first entry Dec. 30, 1930; Sunset Building and Loan Association, first entry May 1, 1930; Principal and interest (Overland Hotel mortgage) \$30,860.43; United States and Arizona bonds owned, State Treas. March 8, 1929, \$50,000.00; Certificates of Account, first entry March 8, 1929; First National Bank of Prescott, 5 entries of \$10,000 each, same date; to State Treasurer \$50,000. Items in process

(Testimony of R. F. Watt.)

of collection. Liabilities: Investment Certificates Account pass-book, first entry 3-8-29; monthly income investment certificates, first entry 9-30-29; full-paid investment certificates, first entry 1-3-29; Installment Investment Certificates Class A, first entry 4-4-29; Installment Investment Certificates Class B, first entry 1-3-30; Installment Investment Certificates Class C, first entry 1-3-30; Installment Investment Certificates Class D, first entry 3-28-30; Installment Investment Certificates Class E, first entry 3-28-30; Installment Investment Certificates Class F, first entry 3-9-30; Full Paid Investment Certificates, first entry 10-31-30; Interest paid to Banks, first entry 6-25-30; Incomplete Loans, first entry 7-18-30; Capital Stock Account, first entry 3-8-20; Undivided Profits Account, Capital Stock Account, Capital Surplus, Undivided Profits, first entry 12-31-30, \$456.70; Profit and Loss Account, first entry 6-2-29, balance \$1,513.65, Profit and Loss Account, 12-31-30, balance \$456.70; Real Estate loan repaid, first entry 5-1-30; Revenues: Interest received account loans, first entry 1-4-30; fees on loans, first entry 1-3-30; interest on [337] investments other than loans; first entry July 3, 1930; interest on Sunset Building and Loan Certificates, balance \$308.00; other fees, first entry 1-6-30; Expense account, first entry 4-13-29; Salaries other officers, first entry 6-9-30; Salaries other employees, first entry 6-6-30; Agents commissions and salaries, first entry Nov. 10, 1930; Auditing and accounting, first

(Testimony of R. F. Watt.)

entry 6-14-30; rent, first entry 7-14-30; Advertising and Publicity, first entry 6-9-30; Fees and Licenses, first entry 6-10-30; Interest on notes payable, first entry 6-25-30; interest paid account—full paid certificates, first entry 6-3-30; interest paid account pass book certificate, first entry 1-3-30; interest paid account pass book certificate, first entry 6-3-31; interest other deposits, first entry August 24, 1931; sundry interest paid, first entry August 15, 1930; printing and stationery, first entry 6-9-30; telephone and telegraph, first entry May 7, 1930; sundry supplies and expenses, first entry 1-7-30; new account expense, first entry 1-14-30; insurance, first entry 5-20-30; postage and stamped envelopes, first entry 1-29-30; title expense, first entry Jan. 20, 1930; donations, first entry March 24, 1930; dues and subscriptions, first entry Dec. 3, 1930; flowers and trimming account, first entry Dec. 31, 1931; travel expense, first entry 7-15-30; automobile expense, first entry 7-10-30; cash short, first entry 1-20-31; interest on full paid investment non-coupon certificates, first entry Nov. 1, 1930.

* (Note: By order of Court appearing in last pages of this Bill, Exhibit 71 is ordered to be sent to Clerk of United States Circuit Court of Appeals.)

GOVERNMENT'S EXHIBIT 72*,

which, abstracted to the issue, is in full substance as follows: General Journal Security Building and Loan Association, subdivided and marked: Check

(Testimony of R. F. Watt.)

Record, Commercial Natl Bank, Phoenix, Arizona, Citizens State, The Valley Bank, First National Bank of Prescott, [338] Arizona, Journal. Record of checks issued on Commercial National Bank, Phoenix, Arizona, first entry Nov. 1, 1929, showing issued to various parties including W. H. Perry, Century Investment Trust, Glen O. Perkins, O. H. Robson, Arizona Holding Corporation, Security Building and Loan Association, Wesley Palmer, D. H. Shreve, James M. Shumway, A. W. York. Citizens State Bank, April 3, 1930, check numbers 1 to 6 inclusive; record of checks issued on The Valley Bank, Accounts 1 and 2, first entry Feb. 5, 1930; issued on The Valley Bank, Mesa, pages 3 to 6 inclusive, first entry June 20, 1930; record of checks issued on The Valley Bank, pages 7, 8, 9, 10, 11 and 12, first entry Feb. 26, 1931; record of checks certified by First National Bank of Prescott, first entry Nov. 21, 1929; record of checks issued on First National Bank of Prescott, first entry Nov. 19, 1929. Journal, years 1929-1930, including various debit and credit entries as cash, Century Investment Trust, pages 1 to 93 inclusive, and list of deposits secured by "Thrift Development Wallet", first entry Nov. 21, 1930, and names and addresses of 224 persons.

*(Note: By order of Court appearing in last pages of this Bill, Exhibit 72 is ordered to be sent to Clerk of United States Circuit Court of Appeals.)

(Testimony of R. F. Watt.)

GOVERNMENT'S EXHIBIT 73*,

which, abstracted to the issue, is in full substance as follows: Loan Ledger of Security Building and Loan Association, subdivided and marked: Loan Ledger, Real Estate, Loans-Incomplete, Record of Loans Phoenix Office Nos. 1 to 70 inclusive, disclosing legal description of property, date of loan, and amount and name of maker, including W. H. Perry, R. A. York, A. W. York and Fannie York, Lyda Dreyfus, F. D. Arrington, James M. Shumway; Record of Loans at Tucson Office Nos. 1 to 22 inclusive, disclosing legal description of property, date of loan, amount and name of maker, including Harry Nelson and wife, Oscar H. Robson and wife, Arizona Holding [339] Corporation, Mrs. A. E. Rayburn (2 loans), James M. Shumway, Frank Arrington, Overland Hotel and Investment Company, Oscar H. Robson and Margaret Robson, Oscar H. Robson et al.

*(Note: By order of Court appearing in last pages of this Bill, Exhibit 73 is ordered to be sent to Clerk of United States Circuit Court of Appeals.)

GOVERNMENT'S EXHIBIT 74*,

which, abstracted to the issue, is in full substance as follows: Daily Cash Sheets Security Building and Loan Association, containing a summary of cash transactions, showing cash account, cash summary, summary - in, summary - out, first page torn

(Testimony of R. F. Watt.)

and bottom missing, subsequent pages signed by E. F. Young, teller, last page dated November 13, 1931. Discloses daily statement of moneys received and moneys paid out.

*(Note: By order of Court appearing in last pages of this Bill, Exhibit 74 is ordered to be sent to Clerk of United States Circuit Court of Appeals.)

GOVERNMENT'S EXHIBIT 75*,

which, abstracted to the issue, is in full substance as follows: Minute book of Security Building and Loan Association, copy of Articles of Incorporation in front, followed by By-Laws, which have heretofore been abstracted under Government's Exhibits 33 and 34; minutes of first meeting of incorporators of Security Building and Loan Association signed by H. V. Bell, Chairman, W. C. Evans, Secretary, held March 7, 1929, in Phoenix. Organization meeting of board of directors held March 7, 1929, showing directors present: Louis Beach, J. C. Barnes, H. V. Bell, E. T. Cusick, W. C. Evans. J. C. Barnes elected President and H. V. Bell Secretary. W. C. Evans resigned as director and A. C. Shreve elected director and Vice-President. H. V. Bell resigned and J. G. Cash elected director and Secretary-Treasurer. J. C. Barnes resigned and [340] J. H. Shreve elected director and President. E. T. Cusick resigned and J. R. DeLatour elected director. Louis Beach resigned and E. R. Kelly elected director. Resolution adopted authorizing officers of corporation to deposit with State Treasurer cash, securities

(Testimony of R. F. Watt.)

or bond in the amount of \$50,000. Adjourned meeting of board of directors held at Tucson March 9, 1929. Security Committee appointed, consisting of J. H. Shreve, A. C. Shreve, J. G. Cash, J. R. DeLatour, G. O. Perkins, J. C. Hobbs, M. E. Olson and Dr. I. E. Huffman. Finance Committee appointed, consisting of J. H. Shreve, A. C. Shreve, J. G. Cash, J. R. DeLatour, G. O. Perkins and J. C. Hobbs. Appraisers appointed: J. H. Shreve, A. C. Shreve, J. C. Hobbs, Dr. I. E. Huffman, G. O. Perkins, M. E. Olson and J. R. DeLatour; minutes signed by Glen O. Perkins. Regular meeting of board of directors held April 2, 1929, at Tucson; signed by G. O. Perkins, Assistant Secretary. Meeting of directors held June 4, 1929, at Tucson. All business transacted ratified and confirmed; signed by Glen O. Perkins. Regular meeting board of directors held July 2, 1929, at Tucson. All business transacted on behalf of the corporation ratified and confirmed; signed Glen O. Perkins, Vice-President. Regular meeting of directors held August 6, 1929, at Tucson. All business transacted on behalf of corporation ratified and confirmed; signed by Glen O. Perkins, vice-President. Regular meeting board of directors held September 3, 1929, signed Glen O. Perkins, Vice-President. Regular meeting November 5, 1929, signed by Glen O. Perkins, Vice-President. Regular meeting of Board of directors December 3, 1929, signed by Glen O. Perkins, Vice-President. Regular meeting of board of directors January 2, 1930;

(Testimony of R. F. Watt.)

authorized J. H. Shreve, A. C. Shreve, G. O. Perkins, J. R. DeLatour and E. F. Young to sign checks on Commercial National Bank. Regular meeting January 30, 1930; J. H. Shreve and G. O. Perkins elected to act as chairman and secretary; J. H. Shreve, J. R. DeLatour, J. G. Cash, A. C. Shreve and E. R. Kelly elected directors for ensuing year; signed J. H. Shreve, chairman, attest G. O. Perkins, secretary. Meeting of board of directors February 3, 1930; J. H. [341] Shreve elected President, A. C. Shreve Vice-President, J. G. Cash Secretary-Treasurer, G. O. Perkins Vice-President and Assistant Secretary, John C. Hobbs, Vice-President and Assistant Secretary, Milton P. Smith, Vice-President, and M. Edward Olson Vice-President and Assistant Secretary, W. C. Evans, Vice-President and Assistant Secretary, F. D. Arrington, Vice-President, E. E. Lane, Vice-President, E. F. Young Assistant Secretary, and L. G. Fricke Assistant Secretary. J. H. Shreve, A. C. Shreve, J. G. Cash, J. R. DeLatour, G. O. Perkins, John C. Hobbs, M. E. Olson, Dr. I. E. Huffman, appointed Security Committee; J. H. Shreve, A. C. Shreve, J. G. Cash, John C. Hobbs, G. O. Perkins and J. R. DeLatour appointed members of Finance Committee; J. H. Shreve, A. C. Shreve, John C. Hobbs, Dr. I. E. Huffman, J. G. Cash, G. O. Perkins, M. E. Olson, J. R. DeLatour, O. D. Flake and D. H. Shreve appointed as appraisers; J. H. Shreve, A. C. Shreve, G. O. Perkins, J. R. DeLatour, M. E. Olson, J. G.

(Testimony of R. F. Watt.)

Cash, E. F. Young, John C. Hobbs, L. G. Fricke and D. H. Shreve authorized to sign checks on Citizens National Bank of Phoenix, Arizona, Commercial National Bank, Phoenix, Consolidated National Bank of Tucson, and Arizona-Southwest Bank of Tucson; minutes signed by A. C. Shreve, Secretary. Adjourned meeting of directors held February 16, 1930, authorizing A. C. Shreve, Vice-President and G. O. Perkins, Assistant Secretary, to satisfy mortgage made to Building and Home Finance Corporation by J. C. Norton and assigned to Security Building and Loan Association; signed by G. O. Perkins, Assistant Secretary. Regular meeting board of directors held March 4, 1930; F. D. Arrington resigned as Vice-President and D. H. Shreve elected to that office, J. H. Shreve, A. C. Shreve, G. O. Perkins, J. R. DeLatour, E. F. Young, D. H. Shreve and J. G. Cash authorized to sign checks on Citizens State Bank; signed G. O. Perkins, Assistant Secretary. Regular meeting of board of directors April 1, 1930, authorizing G. O. Perkins, Vice-President, and E. F. Young, Assistant Secretary, to borrow \$1500 from Citizens State Bank on behalf of Security Building and Loan Association; signed G. O. Perkins, Assistant Secretary. Regular meeting May 6, 1930, authorizing M. Edward [342] Olson, Vice-President, and John C. Hobbs, Assistant Secretary, to execute documents, and authorizing G. O. Perkins and E. F. Young, Vice-President and Assistant Secretary respectively, to borrow money, and

(Testimony of R. F. Watt.)

authorizing D. H. Shreve, G. O. Perkins and E. F. Young to sign checks on Old Dominion Bank, and authorizing G. O. Perkins, Vice-President, and John C. Hobbs, Assistant Secretary, to sell Fourth Issue of Liberty Bonds in the sum of \$5000; signed G. O. Perkins, Assistant Secretary. Regular meeting June 3, 1930. R. F. Watt was appointed appraiser for Association. Regular meeting held July 1, 1930. Resignation of A. C. Shreve as director accepted, with understanding that he should remain as Vice-President; resignation of J. G. Cash accepted; D. H. Shreve elected as director to fill vacancy caused by resignation of A. C. Shreve; D. H. Shreve elected Secretary-Treasurer; resignation of J. R. DeLatour as director accepted and John C. Hobbs elected in his place; resignation of E. R. Kelly as director accepted, and G. O. Perkins elected in his place; R. F. Watt appointed Vice-President and Assistant Secretary. J. H. Shreve, A. C. Shreve, G. O. Perkins, J. R. DeLatour, E. F. Young and D. H. Shreve authorized to sign checks on Commercial National Bank. J. H. Shreve, A. C. Shreve, G. O. Perkins, J. R. DeLatour, M. Edward Olson, R. F. Watt, John C. Hobbs, L. G. Fricke and D. H. Shreve authorized to sign checks on Consolidated National Bank; J. H. Shreve, A. C. Shreve, W. H. Perry, J. R. DeLatour, John C. Hobbs, L. G. Fricke and D. H. Shreve authorized to sign checks on Arizona-Southwest Bank; James M. Shumway, A. C. Shreve, G. O. Perkins, E. F. Young, D. H. Shreve and R. F.

(Testimony of R. F. Watt.)

Watt authorized to sign checks on The Valley Bank, Mesa; J. G. Cash, J. H. Shreve, A. C. Shreve, E. F. Young, R. F. Watt and D. H. Shreve authorized to sign checks on First National Bank of Prescott; minutes signed by G. O. Perkins, Vice-President. Regular meeting held September 2, 1930; all business transacted on behalf of corporation ratified and confirmed; minutes signed by G. O. Perkins, Vice-President. Special meeting October 1, 1930; authorizes J. H. Shreve, A. C. Shreve, G. O. Perkins, J. R. DeLatour, E. F. Young, D. H. Shreve and R. F. Watt to sign checks on Commercial National [343] Bank; minutes not signed. Meeting held October 7, 1930, all business transacted on behalf of corporation ratified and confirmed. Meeting held November 4, 1930, all business transacted on behalf of corporation ratified and confirmed. Regular meeting December 2, 1930, at Tucson; stock transaction of Century Investment Trust authorized; resignation of D. H. Shreve as Vice-President and G. O. Perkins as Assistant Secretary accepted; G. O. Perkins elected Secretary and Treasurer; resignation of J. H. Shreve as director and President accepted and D. H. Shreve elected President; resignation of W. C. Evans, Vice-President and Assistant Secretary, accepted, and R. F. Watt elected director. All business transacted on behalf of corporation ratified and approved; minutes signed by G. O. Perkins, Secretary. Adjourned meeting held December 8, 1930, authorizes

(Testimony of R. F. Watt.)

mortgage executed and delivered by President or Vice-President together with Secretary or Assistant Secretary, ratified and approved, and Secretary and Assistant Secretary empowered to release same; signed G. O. Perkins, Secretary. Regular meeting held January 6, 1931, at Tucson; G. O. Perkins submitted a report showing total assets increased 129% over 1930, from \$95,160.79 to \$217,687.60; showing deposits increased from \$45,347.94 to \$163,785.99, a gain of 261%; net profits for the year \$2,906.58, and pointed out Association in strong cash position, all loans in satisfactory shape, and that 1931 promised to surpass 1930; signed R. F. Watt, Assistant Secretary. Annual meeting of stockholders of Security Building and Loan Association held February 2, 1931, at Tucson; D. H. Shreve, chairman, John C. Hobbs, secretary; all accounts and transactions in year 1930 ratified and approved. D. H. Shreve, G. O. Perkins, J. G. Cash, John C. Hobbs and R. F. Watt elected directors; signed D. H. Shreve, Chairman, attest John C. Hobbs, Secretary. Organization meeting of board of directors held February 2, 1931; D. H. Shreve, Chairman, John C. Hobbs, Secretary. D. H. Shreve elected President, John C. Hobbs, Vice-President, G. O. Perkins, Secretary-Treasurer, and Vice-President, R. F. Watt, Assistant Secretary, [344] John C. Hobbs, Assistant Secretary, E. F. Young, Assistant Secretary, L. G. Fricke, Assistant Secretary, to serve for ensuing year. D. H. Shreve, G. O. Perkins,

(Testimony of R. F. Watt.)

John C. Hobbs, R. F. Watt and O. D. Flake elected members of Security Committee; D. H. Shreve and G. O. Perkins elected members of the Finance Committee. All business transacted on behalf of the corporation ratified and confirmed. Riney B. Salmon appointed attorney at retainer of \$50.00 per month; signed D. H. Shreve, Chairman, John C. Hobbs, Secretary. Special meeting of board of directors held June 5, 1931, authorizing President and Secretary to borrow money from Arizona Bank not to exceed \$10,000; signed D. H. Shreve. Special meeting held June 15, 1931, authorizes corporation to borrow \$10,000 from Consolidated National Bank of Tucson; authorizes President or any Vice-President and Secretary or Assistant Secretary, to execute necessary documents in connection therewith; signed D. H. Shreve. Special meeting of board of directors September 9, 1931, at Phoenix; authorized officers to secure payment of loan Frank and Myrna Collins for \$475.00 or foreclose property; ratified all business transacted for corporation; signed G. O. Perkins, Secretary. Special meeting September 22, 1931, authorizes officers to collect defaulted loans of Vera Thomas, \$1000 and \$1500, or foreclose property; signed G. O. Perkins. Special meeting September 30, 1931; President announced proposition from board of directors of Century Investment Trust to purchase all real estate mortgages and contracts owned by Security Building and Loan Association, consideration of note Century Invest-

(Testimony of R. F. Watt.)

ment Trust, total unpaid balances of such mortgages and deeds of trust to include interest, said note to be paid in monthly installments of \$2500, including 7% interest. Proposition was accepted. Resolution adopted separating activities of Security Building and Loan Association from those of Century Investment Trust at the end of October, 1931; that the Association pay the salaries of the Secretary and all employees heretofore paid by Century Investment Trust; signed G. O. Perkins. Regular meeting October 6, 1931, at [345] Tucson. Resignation of J. G. Cash, director, accepted; signed G. O. Perkins, Secretary. Special meeting board of directors held November 12, 1931, at Phoenix. Proposition made by Century Investment Trust that Security Building and Loan Association release as collateral to \$250,427.45 note signed by Century Investment Trust the following mortgages, and accept in lieu of said mortgages the real estate covered by same:

Old Building and

Loan No.	Name
37	A. W. and Fannie York
41	Lyda Dreyfus
42	F. D. Arrington
44	James M. Shumway
53	Chas J. and Lucille Pinney
59	G. W. and Susan E. Shurts
60	Nancy Belle Flippin
67	H. W. Durham

(Testimony of R. F. Watt.)

Said proposition was accepted; signed by G. O. Perkins, Secretary. Adjourned meeting board of directors held July 24, 1929, at Tucson. Directors present: A. C. Shreve, J. G. Cash; Absent, J. H. Shreve. J. R. DeLatour and E. R. Kelly elected directors. Business transacted on behalf of corporation ratified and confirmed; signed A. C. Shreve, Vice-President, attest J. G. Cash, Secretary. In back of minute book: Newspaper clippings, Articles of Incorporation Security Building and Loan Association; copy of By-Laws Security Building and Loan Association.

*(Note: By order of Court appearing in last pages of this Bill, Exhibit 75 is ordered to be sent to Clerk of United States Circuit Court of Appeals.)

GOVERNMENT'S EXHIBIT 77*,

which, abstracted to the issue, is in full substance as follows: General Ledger of Security Building and Loan Association, subdivided and marked: General Ledger, Assets, Liabilities, Revenues, Expenses. Assets: Loans secured by real estate, control account, first entry October 1, 1931; loans secured by stock in Association, control account, first entry February 13, 1931; Investment certifi- [346] cates—other B & L Assns., control account, first entry June 6, 1931; Furniture and fixtures, first entry March 7, 1929; Supplies—Inventory, control account, first entry February 13, 1931; Items in proc-

(Testimony of R. F. Watt.)

ess of collection, control account, first entry February 13, 1931; Cash on hand, control account, first entry February 13, 1931; First National Bank, Prescott, control account, first entry February 13, 1931; The Valley Bank, Mesa, control account, first entry February 13, 1931; Bank of Chandler, control account, first entry February 13, 1931; Bisbee Agency, control account, first entry February 13, 1931; Globe Agency, control account, first entry February 13, 1931; Consolidated National Bank, Tucson, control account, first entry August 13, 1931; cash items, first entry November 16, 1931; accounts receivable, first entry November 16, 1931; Lialibities: Surplus, control account, first entry February 13, 1931; credit balance \$5,000. Reserve, control account, first entry February 13, 1931; Profit and Loss Credit, \$135.98, November 16, 1931; Undivided Profits, control account, first entry February 13, 1931; November 16, 1931, Cash over \$158.68; Investment Certificates pass-book shares, first entry September 31, 1931; Full Paid Investment Coupon certificates, control account, first entry February 13, 1931; Installment Investment Certificates Class A, control account, first entry February 13, 1931; Installment Investment Certificates Class B, control account, first entry February 13, 1931; Installment Investment Certificates Class C, control account, first entry February 13, 1931; Installment Investment Certificates Class D, control account, first entry February 13, 1931; Installment Investment

(Testimony of R. F. Watt.)

Certificates Class E, control account, first entry February 13, 1931; Installment Investment Certificates Class F, control account, first entry February 13, 1931; Full Paid Investment Non-Coupon Certificates, control account, first entry February 13, 1931; Notes Payable to banks, first entry June 6, 1931; Incomplete Loans, first entry June 6, 1931; Cash over, control account, first entry February 20, 1931; Suspense Items, control account, [347] first entry November 16, 1931; Suspense Items held by order of Superintendent of Banks, first entry November 16, 1931; Accounts Payable, first entry November 16, 1931; Interest Reserve—Notes Payable, first entry November 16, 1931; Revenues, no items; Expense, no items.

*(Note: By order of Court appearing in last pages of this Bill, Exhibit 77 is ordered to be sent to Clerk of United States Circuit Court of Appeals.)

GOVERNMENT'S EXHIBIT 78*,

which, abstracted to the issue, is in full substance as follows: Binder of Security Building and Loan Association, Tucson, Arizona; subdivided and marked Consolidated National Bank, Arizona-Southwest Bank, Phoenix, Assets, Liabilities, Revenues, Expenses and Journal. Record of checks issued on Consolidated National Bank, first entry 12-28-29, pages 1 to 16 inclusive; record of checks issued on Arizona-Southwest Bank, first entry April

(Testimony of R. F. Watt.)

30, 1929, pages 1 to 12 inclusive; Loans secured by real estate, first entry February 15, 1931; Full Paid Investment Coupon Certificates, first entry February 13, 1931; Century Investment Trust, accounts Receivable, Phoenix, first entry February 13, 1931; Interest on Loans, first entry February 13, 1931; Investment Certificates Pass Book Shares, first entry February 13, 1931; Citizens State Bank, Phoenix, first entry February 13, 1931; Arizona National Bank, formerly Commercial National Bank, first entry February 13, 1931. Cash on hand, first entry February 13, 1931. Arizona Bank, Phoenix, control account, first entry February 13, 1931; Citizens State Bank, Phoenix, control account, first entry February 13, 1931; Arizona-Southwest Bank, Tucson, first entry February 13, 1931. Clock Account Payable, first entry February 13, 1931; Century Investment Trust Clock Account Receivable, first entry February 13, 1931. Real Estate Loans Repaid, first entry February 13, 1931. Investment Certificates-Investment shares, control account, first entry April 28, 1931; [348] Investment Certificates, pass-book shares, control account, first entry February 13, 1931; Investment Certificates-pass-book shares, control account, first entry July 10, 1931. Cash on hand, first entry July 10, 1931; Interest on Mortgages, first entry July 10, 1931; New Accounts Expense, first entry July 10, 1931; Real Estate Loans Repaid, first entry July 16, 1931; Suspense Account, first entry March 3, 1931; Loans secured

(Testimony of R. F. Watt.)

by real estate, control account, first entry February 13, 1931; Consolidated National Bank, Tucson, first entry February 13, 1931; Phoenix: Assets: Loans secured by real estate mortgages, first entry October 1, 1931; Loans secured by stock Association, first entry February 13, 1931; Investment Certificates—other building and loan associations, first entry June 6, 1931. Furniture and Fixtures, first entry February 13, 1931. Supplies—Inventory, first entry February 13, 1931; Expenses, Advances, Insurance, first entry February 13, 1931. Accrued Interest Receivable, first entry March 26, 1931. Items in process of collection, first entry February 13, 1931. Cash on hand, first entry July 10, 1931. Arizona Bank, Phoenix, first entry July 10, 1931. First National Bank, Prescott, first entry July 10, 1931; The Valley Bank, Mesa, first entry February 13, 1931; Bank of Chandler, first entry July 10, 1931. Mesa Agency, first entry July 10, 1931; Globe Agency, first entry July 10, 1931. Liabilities: Investment Certificates, pass-book shares, first entry July 10, 1931; Installment Investment Certificates Class D, first entry February 13, 1931; Installment Investment Certificates Class E, first entry February 13, 1931; Installment Investment Certificates Class F, first entry February 13, 1931; Full Paid Coupon Certificates, first entry February 13, 1931. Tucson office, first entry February 13, 1931. Notes Payable to Banks, first entry May 16, 1931. Incomplete Loans, first entry February 13, 1931. Cash over, first entry February

(Testimony of R. F. Watt.)

20, 1931. Escrow Account, first entry February 13, 1931. Reserve, first entry February 13, 1931. Undivided Profits, first entry February [349] 13, 1931. Revenues: Interest on Loans, first entry October 1, 1931; Interest on Investments other than loans, first entry June 29, 1931; Fees on Loans, first entry February 13, 1931; Other fees, first entry June 10, 1931. Expenses: Salaries Officers, first entry February 13, 1931; Salaries other employees, first entry February 13, 1931. Agents commissions and salaries, first entry June 10, 1931; Legal fees and salaries, first entry February 2, 1931; Auditing and Accounting fees, first entry February 13, 1931; Rent, first entry February 13, 1931; Advertising and publicity, first entry February 2, 1931; Taxes and Licenses—exclusive of income tax, first entry March 11, 1931; Interest on Notes Payable, first entry June 22, 1931; Interest on Full Paid Certificates—Coupon, first entry January 31, 1931; Interest on investment certificates, pass-book, first entry February 13, 1931; Printing and stationery, first entry February 13, 1931; Telephone and Telegraph, first entry February 13, 1931; Sundry supplies and expenses, first entry February 13, 1931; New Account Expense, first entry February 13, 1931; Insurance, first entry June 30, 1931; Postage and Stamped Envelopes, first entry February 13, 1931; Revenue Stamps, first entry February 13, 1931; Title Expense, first entry February 13, 1931; Donations, first entry May 11, 1931; Dues and Subscriptions, first entry February

(Testimony of R. F. Watt.)

13, 1931; Flowers and trimmings first entry March 17, 1931; Travel Expense, first entry February 13, 1931; Cash, first entry February 13, 1931; Installment Investment Certificates Full Paid, first entry February 13, 1931. Journal: First entry March 8, 1929. Journal (cash account) first entry March 8, 1929, pages 1 to 78 inclusive.

*(Note: By order of Court appearing in last pages of this Bill, Exhibit 78 is ordered to be sent to Clerk of United States Circuit Court of Appeals.)

Mr. Hardy: May I have the additional objection the books disclose entries made subsequent to October 24th, 1931? [350]

The Court: Overruled.

Mr. Hardy: Exception.

Mr. Peterson: May we at this time renew the offer of Government's Exhibits for identification 119, '20, '21, '22 and '23, the pamphlets which were offered yesterday?

The Court: Yes.

Mr. Hardy: And your Honor, may we renew our objection which was made at that time, and the further objection that these offered exhibits for identification are not admissable under the Bill of Particulars which has been returned by the Government herein, and for the reason the Government's Bill of Particulars makes no mention whatsoever to any advertising, literature, circulars and so forth.

The Court: That is what occurred to me yes-

(Testimony of R. F. Watt.)

terday, but I had forgotten how the indictment read. The indictment names these persons to whom the indictment letters were sent, and other persons. Those other persons were unknown to the Grand Jury, and I had overlooked that, and I thought in your request for the list of witnesses that perhaps the names of those persons should be given in the event they were going to be called as witnesses, those other persons who are not named specifically, but it is obvious that their names were unknown to the Grand Jury, and they are unknown to the Government's attorneys, and their names can't be furnished, so I think that the pamphlets are admissible.

Mr. Hardy: May I make one other suggestion in connection with my objection,—that the conspiracy charge in the indictment has been dismissed, and that therefore the evidence which is admissible in this case [351] must now be confined to the counts of the indictment based upon the Mail Fraud Act, and that under that Act, only evidence which pertains to the sending of the letters herein as restricted and defined by the Indictment herein are admissible as against these defendants.

The Court: Your objection is overruled.

Mr. Hardy: Exception.

Thereupon Government's Exhibits 120, 121, 122 and 123 were read to the jury by the United States Attorney.

(Testimony of R. F. Watt.)

GOVERNMENT'S EXHIBIT 120,

which is in full substance as follows: A pamphlet reading: Security Building and Loan Association Pays 6% on Pass Book Accounts \$1 makes a start. Phoenix, Arizona, 117 North Central Ave. Tucson, Arizona 101 South Scott Street. Pass Book Account 6% compounded Twice a Year January 1st and July 1st. You can start with \$1.00 and add any amount any time. There's no better plan to lay by some of your earnings. It is the most convenient plan and the safest. Every dollar you put here earns 6%. Start now!—Additional amounts may be added weekly, monthly on pay days, or any other convenient time.—Each payment is credited in your Pass Book.—There are no membership or withdrawal fees, fines, forfeitures, penalties, nor deductions made by this Association. All money deposited by you is yours and is subject to your order. (Every dollar placed here is backed by First Mortgages on improved real estate carefully selected.) Under Strict Supervision of State Banking Department—Tax Exempt—6% full paid coupon 6% certificates. You will have an absolutely safe, care-free investment and an unfailing 6% return when you put your money in a Security Certificate. They are backed by first mortgages on real estate carefully selected, and conservatively appraised. These Certificates are available in any amount from \$100 to \$10,000, with [352] 6% coupons attached. Our Full Paid Certificates have many advantages, the chief

(Testimony of R. F. Watt.)

of which is the fact that they are not subject to market fluctuations, and, therefore, are always worth 100 cents on the dollar, plus 6% per annum. Tax Exempt. Our Certificates are free from state and county tax in Arizona and exempt from Federal income tax up to \$5,000.—Under supervision of State Banking Department.

How Your Money Grows When Earning
6 Per Cent Here.

This table shows you how rapidly your savings grow when invested with Security Building and Loan Association, where you get 6% compounded semi-annually. [353]

(Testimony of R. F. Watt.)

HOW YOUR MONEY GROWS WHEN EARNING 6 PER CENT HERE

This table shows you how rapidly your savings grow when invested with Security Building and Loan Association, where you get 6% compounded semi-annually

Monthly Payments	12 Months	24 Months	48 Months	72 Months	96 Months	120 Months	144 Months
\$ 1.00	\$ 12.39	\$ 25.54	\$ 54.29	\$ 86.64	\$ 123.06	\$ 164.04	\$ 210.17
5.00	61.95	127.70	271.45	433.20	615.30	820.20	1,050.85
10.00	123.90	255.40	542.90	866.40	1,230.60	1,640.40	2,101.70
20.00	247.80	510.80	1,085.80	1,732.80	2,461.20	3,280.80	4,203.40
30.00	271.70	766.20	1,628.70	2,599.20	3,691.80	4,921.20	6,305.10
40.00	495.60	1,021.60	2,171.60	3,485.60	4,922.40	6,561.60	8,406.50
50.00	619.50	1,277.00	2,714.50	4,332.00	6,152.00	8,202.00	10,508.50
100.00	1,239.00	2,554.00	5,429.00	8,064.00	12,306.00	10,404.00	21,017.00
200.00	2,478.00	5,108.00	10,858.00	17,328.00	14,612.00	32,808.00	42,034.00

[354]

(Testimony of R. F. Watt.)

National Approval—"I am glad to know of the plans which the U. S. League of Building-Loan Associations is maturing with a view of bringing home to the American people the lesson of thrift and the desirability of home ownership. No greater contribution could be made to the stability of the nation." Calvin Coolidge.—A record in a class by itself—There has never been a failure in a Guarantee Capital Stock Building and Loan Association such as the Security. This is adequate testimony as to the safety of all classes of certificates issued by us. Our foremost financiers recommend "Building and Loan deposits as America's prime investments for yield and safety." "Save and Have"—Benj. Franklin. Security Building and Loan Association.

GOVERNMENT'S EXHIBIT 121,

which is in full substance as follows: A pamphlet reading: Security Building and Loan Association—Security 6% Independence Pass Book Account, 117 North Central Ave. Phoenix, Arizona—107 South Scott Street, Tucson, Arizona. Security six per cent pass book accounts—Why You Should Have One—Everyone wishes to have a reserve fund earning as much as possible, safe, quickly available if necessary, and easily added to, should open a Security Thrift Pass Book account. What They Are. These Pass Book accounts are true savings accounts in every sense of the word. They pay interest at the rate of 6% compounded semi-annually, and may be

(Testimony of R. F. Watt.)

added to at any time. They may be withdrawn, in whole or in part, at any time without notice. They *They Are Safe*—Your money in a Security Pass Book account is safe because the security behind it is the safest known—prime first mortgages on improved Arizona Real Estate. A liberal reserve in high-grade bonds, carefully selected according to strict State requirements, and a strong cash position at all times are additional safety factors. Our permanent Guarantee Capital completes the strong chain of safeguards surrounding every dollar you have in a Security Pass Book account. [355] *How They Work*. Security Six Per Cent Pass Book Accounts may be opened at any time with any amount. You may add to your account whenever you please and as much as you like. Interest is paid from the date your funds are received. They Pay Six Per Cent. Interest periods are from January first to June thirtieth and from July first to December thirty-first of each calendar year. Interest is credited and compounded semi-annually on January first and July first at the rate of 6% per annum on the monthly balances. Withdrawals—Withdrawals may be made at any time in whole or in part. The Security is the first Building and Loan Association in Arizona to establish this policy. It has been the established plan for Building and Loan Associations in other States for many years. Money deposited in this Association belongs to the depositor and can be had at any time in whole or in part.

(Testimony of R. F. Watt.)

Term Certificates. The Security Building and Loan Association also issues Fully Paid Certificates with interest payable monthly, quarterly or semi-annually. Inquire for details. Summary. Security Pass Book Accounts are ideal for those who desire all the safety, the liberal income and availability of funds which they provide. Accounts may be opened with any amount from \$1.00 up, with full withdrawals without penalty.

GOVERNMENT'S EXHIBIT 122,

which is in full substance as follows: A pamphlet reading: "What Twelve Million Americans Know" Security Building and Loan Association Phoenix Tucson Mesa Chandler Bisbee—In the early part of 1924, the heirs of Mrs. Josephine Avery Gray of New London, Conn., sent to the City Council the sum of \$70 to be "immediately placed in the Savings Bank of New London and to be left there untouched until the year 2224, when, with accrued interest, it will amount to \$14,000,000.00," and will be devoted to public purposes, chiefly a hospital. Tremendous fortunes may grow out of compound interest. Had Julius Caesar deposited one [356] Roman penny at compound interest, it would by now have grown big enough to buy out the whole world. And had the Gray heirs requested their \$70 to remain in compound interest another 300 years, it would run into the quadrillions and far surpass what may be predicted the wealth of the world in

(Testimony of R. F. Watt.)

A. D. 2524.—For age and want, save while you may,
No morning sun lasts a whole day.—Franklin.—On
January 3, 1831, a small group of people met in the
Inn of Thomas Sidebotham, at Frankford, in Phil-
adelphia County, Pennsylvania, and organized the
Oxford Provident Building Association of Phil-
adelphia County. Thus was born the first building-
and-loan association in the United States, and it is
still doing business, although the name has been
changed. All over the country during January the
centennial was observed with fitting ceremonies by
the more than 12,000 associations now in operation.
They have every reason to review the first century
in pride and satisfaction. They represent today a
nine-billion-dollar business, all of which has grown
from that tiny association. It is estimated that
building-and-loan associations have participated in
the financing of more than two million homes in the
United States in the past hundred years. The asso-
ciations pioneered in the amortized loan, which
gradually pays itself out in set amounts.—Economy
is a great revenue.—Cicero, Paradoza.—The asso-
ciation has always been the most active source of
funds for the small home owner. It has pioneered in
making it possible for him to acquire a home of his
own out of income, when such was a virtual impos-
sibility in any other way. And in the future, as
home financing is freed from many of its archaic
fetters, the building-and-loan association will still
be found in the very forefront, rendering service to

(Testimony of R. F. Watt.)

prospective home owners.—Operation. The Security Building and Loan Association serves two groups of people, the depositors and borrowers. The depositors use the Association as a place where they can put, from time to time, such amounts of money, large or small, as they are able to save from their income, receiving 6% [357] compounded semi-annually on the same. The borrowers use the Association as a place where they may borrow money to aid them in buying or building a home, the loan being repaid in all cases on the installment plan. Each month the interest is paid, together with a part of the principal, this systematic reduction of the whole amount making for still greater safety. The Security Building and Loan Association loans money to build a home, to purchase a home already built, as well as loans money to pay-off and replace an existing loan. The Security Building and Loan Association was formed to encourage industry, frugality, home-building and accumulation of funds. It is incorporated under the laws of the State of Arizona with an authorized capital of \$500,000.00 and a paid in capital of \$50,000.00, which is increased with the growth of the Association. Its officers and directors are men of outstanding ability, experience and knowledge in the handling of a large building and loan association. Advantages. Advantages of Building and Loan Associations to borrowers are obvious in that there is a continual demand for new houses throughout the country, there

(Testimony of R. F. Watt.)

being practically at all times a housing shortage. In addition to the demand for new houses there is also the necessity of refinancing present obligations. In fact, the demand for money in the borrowing class is always steady and of a large proportion. The advantages to saving depositors are equally apparent. The Security Building & Loan Association of Arizona guarantees 6% per annum, compounded semi-annually on January first and July first, and a genuine inducement for the small saver to save. At 6%, compounded semi-annually, money doubles in less than twelve years. This Association is under strict supervision of the State Superintendent of Banks of the State of Arizona, being periodically examined by the Superintendent and his deputies and no unsafe or undesirable business methods are permitted. Money is loaned only on first mortgages for home building and buying purposes at about 50% of the value of such property, assuring additional safety. Your investment is [358] always worth 100 cents on the dollar. We guarantee to redeem our certificates after one year in cash at par with 6% to date of withdrawal. This is the only form of corporation in existence compelled by law to buy back its own certificates at full face value. Tax Exempt. All investments in this Association are exempt from State, County and City taxes in the State of Arizona and are exempt from the Federal income tax up to \$5,000.00, which latter is a self-evident inducement to investors. All in all, no better means

(Testimony of R. F. Watt.)

exists for the aiding of savings, the encouragement of thrift and the accumulation of capital than building and loan associations, as over twelve million happy, prosperous people throughout the nation have learned.—Extravagance and lack of cash cause more domestic trouble than any other thing.—Tell your money where it is to go, instead of asking it where it went.—When an employer learns that a man is saving money or owns a home he has more respect for him and is more willing to trust and advance him.—The race is not to the swift, nor the battle to the strong.—Ecclesiastes.—He will always be a slave, who does not know how to live upon a little.—Horace. How to Save a Fortune on a Few Cents a Day—What your dollars earn in from 12 to 144 months with the Security Building & Loan Association at 6%, compounded semi-annually.—Compound interest is the most irresistible, relentless force in the world. There is no quicker, surer, easier, safer way to accumulate a fortune of \$10,508.00 than by placing \$50 a month for 144 months in this association. \$5 a month (less than 17c a day) placed here for 144 months will total \$1,050.85. Study the following chart—it is an open sesame to success—it shows you how fast money grows at our 6%, compounded semi-annually. Paste up the chart in your room so that you will see it every morning, and start saving now, today, for any object you have in mind—marriage, home, business, education, old age, travel, pleasure, or all of them. (The

(Testimony of R. F. Watt.)

chart set up in this exhibit is the identical chart showing monthly earnings on investments set up in Exhibit 120.) [359] If you would know the value of money, go and try to borrow some.—Benjamin Franklin.—Herbert Hoover says: “Your associations, true people’s banks, popularly controlled and locally managed, have sprung up voluntarily throughout the country. Through the system of weekly or monthly deposits of their stockholders, they encourage thrift throughout the nation. Through the system of amortization, in which building and loan associations were the pioneers, they have made their assets sound and worthy of confidence. Through loans principally upon homes they are an instrumentality not only in solving the housing problem, but in developing self-reliance of our citizenry.”—Forms of Investment. 6% Pass-Book Plan—These Pass Book accounts are true savings accounts in every sense of the word. They pay interest at the rate of 6% compounded semi-annually, and may be added to at any time. They may be withdrawn, in whole or in part, at any time without notice. Withdrawals—This institution has no membership charges, recording fees, withdrawal fines or other expense attached to investing or withdrawing.—By robbing Peter he paid Paul, he kept the moon from the wolves and was ready to catch larks if ever the heavens should fall.—Rabelais.—6% Investment Certificates (Fully Paid). These are issued in denominations of \$100 up in even hundreds, for

(Testimony of R. F. Watt.)

a term of one to ten years, unless sooner withdrawn. Twenty semi-annual interest coupons are attached to each certificate, the interest being computed at the rate of 6% per annum, payable on January first and July first of each year. They are issued at any time, and in all cases the interest is paid from the date of the certificate until the month of withdrawal. The investment is tax-exempt and is fully approved by the State Banking Department. Certificates may be withdrawn one year from date of their issuance, the purchaser receiving full face value, together with 6% interest to date of withdrawal. Certificates are always for sale at par, and must be bought back by us at par. They are perfectly convertible—that is, an investor need not wait until he finds a customer, or a favorable [360] market or a good offer, if he desires to cash his certificate. He has only to present it for withdrawal and get his money; no liability attached. These certificates have all the safety of the highest grade bond, with the added advantage that they are always convertible into cash, with no possibility of depreciated value and no expense. The holder of a Security 6% Certificate is assured of a definite, regular and secured income. Monthly Income Certificates—Monthly income certificates are issued on fully paid amounts of \$1000 or more and interest is paid monthly by check. These certificates are convenient for those who wish to use their interest monthly. If, however, the interest is not needed by the holder

(Testimony of R. F. Watt.)

of the certificates the same can be placed in a Pass Book account each month, thereby compounding interest monthly. Economy, the poor man's mint.—Tupper.—The road to the poorhouse is paved with wasted pennies.—Security. Each certificate is equally secured by a prior lien upon all the assets of the Security Building and Loan Association, including first mortgages on high-grade, improved real estate aggregating twice the amount of outstanding certificates. Loans are made only on high-class city and suburban property, improved or to be improved with the money loaned, and residence property is given preference. Finally, all loans are made on the amortization or monthly payment plan—hence the amount of the loan is decreased each month and the security becomes better and better. What Noted Men Say of Building and Loan Association—The White House, Washington, October 26, 1923. *Mt* dear Mr. Howell: I am glad to know, through your letter of October 14th, of the plans which the United States League of Local Building and Loan Associations is maturing, with a view of bringing home to the American people the lesson of thrift and the desirability of home ownership. No greater contribution could be made to secure the stability of the nation, and the advancement of its ideals, than to make it a nation of home-owning families. All the instrumentalities, which have been devised to contribute toward this end, are deserving of encourage- [361] ment, and I have been pleased

(Testimony of R. F. Watt.)

to know of your program to bring national attention to this cause. I hope it will meet with the fullest measure of success. Most sincerely yours, Calvin Coolidge. No man is rich whose expenditures exceed his means; and no one is poor whose incomings exceed his outgoings.—Haliburton. The Secretary of State, Washington, November 17, 1928. My dear Mr. Howell: I have received your letter and I am glad to know of the movement by the United States League of Local Building and Loan Associations to emphasize the importance of thrift and home ownership. I trust this enterprise will be entirely successful, as these aims are most closely related to our prosperity and to the permanence of American institutions. Very sincerely yours, Charles E. Hughes. The Men Behind the Security—The successful business leaders who are directors of this institution, and investors in its guaranteed Capital Stock, warrant the solidity, safety and success of the Security Building & Loan Association. Combine with them by depositing your funds in the Association. Security Building & Loan Association—Parley Sheldon, 81, of Ames, Iowa, stopped smoking when he was a private in the Union Army during the Civil War. For 60 years he has saved 50¢ a day—cigar money—and with interest compounded annually at 6%, he has achieved a fortune of \$54,577.00. The above is a shining example of the multiplying power of compound interest, as Mr. Sheldon actually saved only about \$11,000. The bal-

(Testimony of R. F. Watt.)

ance of over \$43,000 represents interest earned, as money doubles in less than 12 years at 6%, compounded semi-annually. Remember always that after the first few years money makes money far faster than you can, until eventually the interest, or earning power of money, is responsible for almost the entire accumulation.—Thrift Security Independence 6%. “Save and Gave”—Benjamin Franklin.

GOVERNMENT'S EXHIBIT 123,

which is in full substance as follows: What Nine Million People Know—Security Building and Loan Association, Phoenix, Tucson, Mesa. [362] In the early part of 1924, the heirs of Mrs. Josephine Avery Gray of New London, Conn., sent to the City Council the sum of \$70 to be “immediately placed in the Savings Bank of New London and to be left there untouched until the year 2224, when, with accrued interest, it will amount to \$14,000,000.00,” and will be devoted to public purposes, chiefly a hospital. Tremendous fortunes may grow out of compound interest. Had Julius Caesar deposited one Roman penny at compound interest, it would by now have grown big enough to buy out the whole world. And had the Gray heirs requested their \$70 to remain in compound interest another 300 years, it would run into the quadrillions and far surpass what may be predicted the wealth of the world in 2524. Extravagance and lack of cash cause more domestic trouble than any other thing.—In the year

(Testimony of R. F. Watt.)

1831 in Frankford, a suburb of Philadelphia, Pennsylvania, the Oxford Provident Building and Loan Association was organized, the first Building and Loan Association in the United States. The venture proving highly successful the idea spread until today there are in the nation almost thirteen thousand of these institutions numbering over nine million members, comprising total assets of over six and one-half billion dollars or over \$500.00 per member. Whole sections owe their development to these Associations. For instance the residential portions of Minneapolis and St. Paul, Minnesota, have been almost entirely built up under this system. In California there are almost two hundred of these Associations with over two hundred million dollars in assets. The original purpose of these associations was to assist its members in acquiring and building homes, to which have been added several of the functions of banking, so that in New England the associations are known as co-operative banks. Members are assisted to save and invest money through open "pass-book" accounts and coupon certificates, drawing stated returns.—Economy is a great revenue.—Cicero, *Paradoxa*. Operation. Members of the Security Building and Loan Association are of two classes; the saving members and the borrowing members. The saving [363] members use the Association as a place where they can put, from time to time, such amounts of money, large or small, as they are able to save from their income, receiv-

(Testimony of R. F. Watt.)

ing 6% compounded semi-annually on the same. The borrowing members use the Association as a place where they may borrow money to aid them in buying or building a home, the loan being repaid in all cases on the installment plan. Each month the interest is paid, together with a part of the principal, this systematic reduction of the whole amount making for still greater safety. The Security Building and Loan Association loans money to build a home, to purchase a home already built, as well as loans money to pay off and replace an existing loan.—For age and want, save while you may, no morning sun lasts a whole day.—Franklin. The Security Building and Loan Association was formed to encourage industry, frugality, home-building and accumulation of funds. It is incorporated under the laws of the State of Arizona with an authorized capital of \$500,000.00 and a paid in capital of \$50,000.00, which is increased with the growth of the association. Its officers and *directed* are men of outstanding ability, experience and knowledge in the handling of a large building and loan association. Advantages. Advantages of Building and Loan Associations to borrowers are obvious in that there is a continual demand for new houses throughout the country, there being practically at all times a housings shortage. In addition to the demand for new houses there is also the necessity of refinancing present obligations. In fact, the demand for money in the borrowing class is always steady and of a large

(Testimony of R. F. Watt.)

proportion. The advantages to saving depositors are equally apparent. The Security Building & Loan Association of Arizona guarantees 6% per annum, compounded semi-annually on January first and July first, and a genuine inducement for the small saver to save. At 6%, compounded semi-annually, money doubles in less than twelve years. This Association is under strict supervision of the State Superintendent of Banks of the State of Arizona, being [364] periodically examined by the Superintendent and his deputies and no unsafe or undesirable business methods are permitted. Money is loaned only on first mortgages for home building and buying purposes at about 50% of the value of such property, assuring additional safety. Your Investment is always worth 100 cents on the dollar. We guarantee to redeem our certificates after one year in cash at par with 6% to date of withdrawal. This is the only form of corporation in existence compelled by law to buy back its own certificates at full face value. Tax Exempt. All investments in this Association are exempt from State, County and City taxes in the State of Arizona and are exempt from the Federal income tax up to \$5,000.00, which latter is a self-evident inducement to investors. All in all, no better means exists for the aiding of savings, the encouragement of thrift and the accumulation of capital than building and loan associations, as over twelve million happy, prosperous people throughout the nation have learned. Tell your

(Testimony of R. F. Watt.)

money where it is to go, instead of asking it where it went. When an employer learns that a man is saving money or owns a home he has more respect for him and is more willing to trust and advance him. (The chart set up in this exhibit is the identical chart showing monthly earnings on investments set up in Exhibit 120.) If you would know the value of money, go and try to borrow some.—Benjamin Franklin.—Herbert Hoover says: “Your associations, true people’s banks, popularly controlled and locally managed, have sprung up voluntarily throughout the country. Through the system of weekly or monthly deposits of their stockholders, they encourage thrift throughout the nation. Through the system of amortization, in which building and loan associations were the pioneers, they have made their assets sound and worthy of confidence. Through loans principally upon homes they are an instrumentality not only in solving the housing problem, but in developing self-reliance of our citizenry.”—Forms of Investment. You may invest in this Association in either of two ways: By the [365] 6% Thrift Pass-Book Plan, or by 6% Monthly Income Certificates. As the latter are issued in denominations from \$100 up, it is advisable to use the Pass-Book Plan until sufficient money accumulates to buy a certificate. The advantages of certificates over the open are that they lessen the temptation to sudden withdrawal of your funds, give you a negotiable security, and with their at-

(Testimony of R. F. Watt.)

tached interest coupons further possess the convenience of bonds. These coupons you may cash at your bank or with us.—By robbing Peter he paid Paul, he kept the moon from the wolves and was ready to catch larks if ever the heavens should fall.—Rabelais. 6% Pass-Book Plan. \$1 opens an account here, additional payments are accepted at any time, and, although the Association for protection has a legal right to demand a 30 day notice, it has always been the policy to allow withdrawals in part or whole upon quick notice. Each payment is credited in a Pass Book, and 6% per annum is paid on January first and July first of each year. With a \$1 or more account, a book or thrift bank is given, if desired. 6% Investment Certificates (Fully paid). These are issued in denominations of \$100 up in even hundreds, for a term of one to ten years, unless sooner withdrawn. Twenty semi-annual interest coupons are attached to each certificate, the interest being computed at the rate of 6% per annum, payable on January first and July first of each year. They are issued at any time, and in all cases the interest is paid from the date of the certificate until the month of withdrawal. The investment is tax-exempt and is fully approved by the State Banking Department. Certificates may be withdrawn one year from date of their issuance, the purchaser receiving full face value, together with 6% interest to date of withdrawal. Certificates are always for sale at par, and must be bought back by

(Testimony of R. F. Watt.)

us at par. They are perfectly convertible—that is, an investor need not wait until he finds a customer, or a favorable market or a good offer, if he desires to cash his certificate. He has only to present it for withdrawal and get his money; no [366] liability attached. These certificates have all the safety of the highest grade bond, with the added advantage that they are always convertible into cash, with no possibility of depreciated value and no expense. The holder of a Security 6% Certificate is assured of a definite, regular and secured income. Monthly Income Certificates.—Monthly income certificates are issued on fully paid amounts of \$1000 or more and interest is paid monthly by check. These certificates are convenient for those who wish to use their interest monthly. If, however, the interest is not needed by the holder of the certificates the same can be placed in a Pass Book account each month, thereby compounding interest monthly. Economy, the poor man's mint.—Tupper. What Noted Men Say of Building and Loan Association—The White House, Washington, October 26, 1923. My dear Mr. Howell: I am glad to know, through your letter of October 14th, of the plans which the United States League of Local Building and Loan Associations is maturing, with a view of bringing home to the American people the lesson of thrift and the desirability of home ownership. No greater contribution could be made to secure the stability of the nation, and the advancement of its ideals, than to make it

(Testimony of R. F. Watt.)

a nation of home-owning families. All the instrumentalities, which have been devised to contribute toward this end, are deserving of encouragement, and I have been pleased to know of your program to bring national attention to this cause. I hope it will meet with the fullest measure of success. Most sincerely yours, Calvin Coolidge. No man is rich whose expenditures exceed his means; and no one is poor whose incomings exceed his outgoings.—Haliburton. The Secretary of State, Washington. November 17, 1928. My dear Mr. Howell: I have received your letter and I am glad to know of the movement by the United States League of Local Building and Loan Associations to emphasize the importance of thrift and home ownership. I trust this enterprise will be entirely successful, as these aims are most closely related to our prosperity and to the permanence of American institutions. Very [367] sincerely yours, Charles E. Hughes. Security Building & Loan Assn.—Parley Sheldon, 81, of Ames, Iowa, stopped smoking when he was a private in the Union Army during the Civil War. For 60 years he has saved 50¢ a day—cigar money—and with interest compounded annually at 6%, he has achieved a fortune of \$54,577.00. The above is a shining example of the multiplying power of compound interest, as Mr. Sheldon actually saved only about \$11,000. The balance of over \$43,000 represents interest earned, as money doubles in less than 12 years at 6%, compounded semi-annually.

(Testimony of R. F. Watt.)

Remember always that after the first few years money makes money far faster than you can, until eventually the interest, or earning power of money, is responsible for almost the entire accumulation.—**Thrift Security Independence 6%.** “Save and Have”—Benjamin Franklin.

Government's Exhibit 119 was admitted in evidence.

GOVERNMENT'S EXHIBIT 119,

which is in full substance as follows: Security Building and Loan Association Thrift Security Independence 6% Pass Book Account, 119 North Central Avenue, Phoenix, Arizona; 107 South Scott Street, Tucson, Arizona.—**Security Six Per Cent Pass Book Accounts. Why You Should Have One—**Everyone who wishes to have a reserve fund earning as much as possible, safe, quickly available if necessary, and easily added to, should open a Security Thrift Pass Book account. **What They Are—**These Pass Book accounts are true savings accounts in every sense of the word. They pay interest at the rate of 6% compounded semi-annually, and may be added to at any time. They may be withdrawn, in whole or in part, at any time without notice. **Why They Are Safe—**Your money in a Security Pass Book account is safe because the security behind it is the safest known—prime first mortgages on improved Arizona Real Estate. A liberal reserve in high-grade bonds, carefully selected according to

(Testimony of R. F. Watt.)

strict State requirements, and a strong cash position [368] at all times are additional safety factors. Our permanent Guarantee Capital completes the strong chain of safeguards surrounding every dollar you have in a Security Pass Book account. How They Work—Security Six Per Cent Pass Book Accounts may be opened at any time with any amount. You may add to your account whenever you please, and as much as you like. Interest is paid from the date your funds are received. They Pay Six Per Cent—Interest periods are from January first to June thirtieth and from July first to December thirty-first of each calendar year. Interest is credited and compounded semi-annually on January first and July first at the rate of 6% per annum on the monthly balances. Withdrawals—Withdrawals may be made at any time in whole or in part. The Security is the first Building and Loan Association in Arizona to establish this policy. It has been the established plan for Building and Loan Associations in other States for many years. Money deposited in this Association belongs to the depositor and can be had at any time in whole or in part. Term Certificates—The Security Building and Loan Association also issues Fully Paid Certificates with interest payable monthly, quarterly or semi-annually. Inquire for details. Summary—Security Pass Book Accounts are ideal for those who desire all the safety, the liberal income and availability of funds which they provide. Accounts may be opened with

(Testimony of R. F. Watt.)

any amount from \$1.00 up, with full withdrawals without penalty.

Thereupon counsel for the Government requested permission to withdraw Government's Exhibit 124 in evidence, which was denied by the Court. [369]

WILLIAM MILNER,

called as a witness on behalf of the Government, testified:

At the present time I reside in Texas. I have known A. C. Shreve and J. H. Shreve, defendants in this case, for ten or fifteen years. I was acquainted with them during the time the Security Building and Loan Association was operating in Arizona, in 1928, 1929 and 1930. I was in Arizona many times during that time. At that time I was residing in San Diego. That is my signature on Government's Exhibit 118 for identification. The signatures endorsed upon the back of each of Government's Exhibits 114, 115 and 116 for identification are mine.

Mr. Flynn: At this time, if the Court please, we offer in evidence Government's Exhibit 118 for identification.

Mr. Hardy: We object to the introduction of [370] Government's Exhibit 118 for identification for the reason it purports to be an assignment of a mortgage. The mortgage itself is not before the

(Testimony of William Milner.)

Court, nor has there been any testimony with respect to it. For the further reason that it appears upon the face of the proposed exhibit it is purely hearsay in so far as the defendants on trial are concerned.

Mr. Flynn: Does the Court wish to see the exhibit?

The Court: Yes.

Mr. Hardy: For the further reason no proper foundation has been laid for its reception in evidence.

The Court: It may be received.

Mr. Hardy: Exception.

Government's Exhibit 116 for identification was admitted in evidence.

GOVERNMENT'S EXHIBIT 118,

which, abstracted to the issue, is in full substance as follows: Assignment of Mortgage, Loan No. 6, executed by Wm. S. Millener, September 21, 1929, to Security Building and Loan Association, acknowledged on same date by Wm. S. Millener before Eva F. Hill, Notary Public San Diego County, California; recorded at request of John Hobbs October 7, 1929, in the office of the County Recorder of Pima County, Arizona. Recites in consideration of \$10.00, to Wm. S. Millener in hand paid by Security Building and Loan Association, said Wm. S. Millener assigns to Security Building and Loan Association mortgage dated September 21, 1929, made and executed by Overland Hotel and Investment Company

(Testimony of William Milner.)

to Wm. S. Millener, which mortgage was recorded on September 24, 1929, in Book 91 of Mortgages, Page 438, in the office of the County Recorder of Pima County, Arizona, and also assigns three notes therein described. [371]

The witness continuing: I am sure I wouldn't know if I am the William S. Milner mentioned in Government's Exhibit 117 for identification. I would not know anything about that instrument. I don't believe I could recall anything about it.

Q. Did you ever, Mr. Milner, loan \$30,000 to the Overland Hotel Investment Company?

Mr. Hardy: We object, your Honor, it is incompetent, irrelevant and immaterial, and a loan made to the—what is the name?

Mr. Flynn: The Overland Hotel and Investment Company.

Mr. Hardy: The Overland Hotel and Investment Company pertains to a loan to a corporation not named in the indictment herein.

Mr. Peterson: We will connect it up.

Mr. Hardy: And it is hearsay, incompetent, irrelevant and immaterial as to these defendants on trial.

The Court: He may answer.

Mr. Hardy: Exception.

The witness continuing: I wouldn't know. I might have made a loan at one time over here, negotiated one. I don't recall that I took a mortgage in my own name. I don't recall ever having seen this

(Testimony of William Milner.)

instrument before, or having taken a mortgage from the Overland Hotel and Investment Company. I have seen these instruments which are Government's Exhibits 114, 115 and 116 for identification. My signature is endorsed upon the back of them.

Q. Do you recall having received any such instruments from the Overland Hotel and Investment Company?

Mr. Hardy: We object, your Honor, for the reason that it is hearsay as to these defendants, incompetent, irrelevant and immaterial, and on [372] the face of it relates to a transaction which has no connection with any of the corporations named in this indictment, collateral to the issues on trial in this case.

The Court: You may answer.

Mr. Hardy: Exception.

The witness continuing: If I signed this it has been a long time ago. I don't recall a great deal about it but if I signed it I must have received it from them. I do not know the signatures on the face of these instruments. I never saw that signature before, to my knowledge. I have known A. C. Shreve for ten or fifteen years. I don't know that I have ever seen his signature. I had many business dealings with Archie Shreve and J. H. Shreve along in 1928, 1929 and 1930.

Thereupon Government's Exhibit 118 was read to the jury by the United States Attorney.

Mr. Flynn: Q. Mr. Milner, when you signed this instrument and acknowledged it, did you receive

(Testimony of William Milner.)

\$30,000, or any part of it from the Security Building and Loan Association?

A. Mr. Flynn, I could explain that to you. At that time I was making many——

Q. If you will answer my question first, Mr. Milner, and then you can explain. Did you?

A. Well, I received an interest in the Overland Hotel Investment Company, or one of the companies that was going to take over the hotel, and they were refurnishing the hotel at the time, and I was supposed to receive an interest for negotiating that loan.

Q. Whom did you negotiate this loan for, Mr. Milner? Whose money was it?

A. Whose money? Whoever it says it was. I [373] don't know. Well, this is an assignment, isn't it?

Q. Whose money was it that you made the original loan for, that is what I want to know.

A. Well, I don't recall.

I recall the three notes you have in your hand for \$30,000, but I don't recall whose money it was; it wasn't mine. These notes were made payable to me, weren't they? I imagine that these are the notes referred to as Exhibits 114, 115 and 116 and referred to in this assignment which was just read to the jury as Exhibit 118 in evidence.

Q. Well, now, will you tell the Court and jury when you made this assignment what part of this \$30,000, if any, was paid to you by the Security Building and Loan Association?

(Testimony of William Milner.)

Mr. Hardy: We object to that as incompetent, irrelevant and immaterial, does not refer to anything named in the indictment in this case.

The Court: He may answer.

Mr. Hardy: Exception.

A. Mr. Flynn, as far as actual money was concerned, I don't recall receiving any.

Mr. Flynn: Q. Did you ever receive anything from the Security Building and Loan Association in consideration for this assignment?

Mr. Hardy: We object further, your Honor, because it has now developed that the questions are asked of the witness referring to a mortgage, and the mortgage is not in evidence nor before the Court and the jury, nor the defendants, nor the defendants' counsel. It is secondary evidence of something not yet in evidence.

Mr. Flynn: I am just referring to the assignment, not the mortgage. [374]

Mr. Hardy: The terms of the mortgage and conditions certainly should be before your Honor and the jury to make this assignment admissible, or evidence in regard to it.

The Court: You may answer.

Mr. Hardy: Exception.

The witness continuing: I believe I answered that. I don't recall whether I received anything from the Security Building and Loan Association or not.

Mr. Hardy: We move that all testimony with respect to Exhibit 118 be stricken for the reason that

(Testimony of William Milner.)

it relates to an assignment of a mortgage, and that the mortgage referred to in the assignment is not before the Court or in evidence.

The Court: Motion denied.

Mr. Hardy: Exception.

JOHN C. HOBBS,

recalled as a witness on behalf of the Government, testified:

Redirect Examination

I recognize both the signatures on Government's Exhibit 114. They are the signatures of J. H. Shreve and M. E. Olson. Mr. Olson was manager of the Santa Rita Hotel at the time we had our offices at the Santa Rita Hotel. I recognize the signatures on Government's Exhibit 115. They are the same signatures as on Government's Exhibit 114. The signatures on Government's Exhibit 116 are the same signatures as appear on the other two instruments I have just identified. The two signatures on Government's Exhibit 117 are the same as the signatures on the three instruments which I have just identified. That is my signature on the back of the instrument. These two signatures were made then and this instrument acknowledged by me as a Notary Public by the parties whose signatures appear on the face of it. [375]

Mr. Flynn: We offer in evidence now Government's Exhibit 117 for identification.

(Testimony of John C. Hobbs.)

Mr. Hardy: We object, your Honor, to the introduction of Government's Exhibit 117 for identification for the reason that it appears to be a transaction between parties not named in the indictment herein; hearsay, irrelevant, incompetent and immaterial.

The Court: It may be received.

Mr. Hardy: Exception.

Thereupon Government's Exhibit 117 was read to the jury by the United States Attorney.

GOVERNMENT'S EXHIBIT 117,

which, abstracted to the issue, is in full substance as follows: Original Realty Mortgage, Loan No. 6, executed by Overland Hotel and Investment Company by A. C. Shreve, Vice-President, M. E. Olson, Assistant Secretary, September 21, 1929, acknowledged on the same date by A. C. Shreve as Vice-President and M. E. Olson, as Assistant Secretary of Overland Hotel and Investment Company, before John C. Hobbs, Notary Public; recorded at request of Abstract Title & Guarantee Company September 24, 1929, in the office of the County Recorder of Pima County, Arizona. Mortgage recites Overland Hotel and Investment Company for and in consideration of \$30,000 paid to it by Wm. S. Millener, mortgages to Wm. S. Millener Lot 7, Block 257, City of Tucson, County of Pima, State of Arizona, according to map or plat showing the subdivision of Military Plaza of record in the office

(Testimony of John C. Hobbs.)

of the County Recorder of Pima County, Arizona, in Book 1 of Maps and Plats at page 24 thereof; recites mortgage secures payment of three promissory notes of even date executed by mortgagor to mortgagee, calling for principal sum of \$30,000 together with interest at the rate of 8% per annum, payable quarterly; \$10,000 due September 21, 1932, \$10,000 due September 21, 1933, [376] \$10,000 due September 21, 1934.

Mr. Flynn: If the Court please, at this time we offer in evidence the three instruments marked as 114, 115 and 116 for identification.

The Court: They were identified?

Mr. Flynn: He is the one, he identified the signatures, yes, sir.

Mr. Hardy: We make the same objection to the introduction of these exhibits marked for identification for the same reasons that were made to the receipt in evidence of the last exhibit.

The Court: The same ruling.

Mr. Hardy: Exception.

Government's Exhibits 114, 115 and 116 were read to the jury by the United States Attorney.

GOVERNMENT'S EXHIBIT 114,

which, abstracted to the issue, is in full substance as follows: Promissory note dated Tucson, Arizona, September 21, 1929, Loan No. 6, amount \$10,000, signed Overland Hotel and Investment Company by A. C. Shreve, Vice-President, M. E. Olson, As-

(Testimony of John C. Hobbs.)

sistant Secretary, seal affixed, payable to W. S. Millener on September 21, 1932, at the Consolidated National Bank of Tucson, with 8% interest; endorsed Wm. S. Millener.

GOVERNMENT'S EXHIBIT 115,

which, abstracted to the issue, is in full substance as follows: Promissory note dated Tucson, Arizona, September 21, 1929, Loan No. 6, amount \$10,000, signed Overland Hotel and Investment Company by A. C. Shreve, Vice-President, M. E. Olson, Assistant Secretary, seal affixed, payable to W. S. Millener on September 21, 1933, at the Consolidated National Bank of Tucson, with 8% interest; endorsed Wm. S. Millener. [377]

GOVERNMENT'S EXHIBIT 116,

which, abstracted to the issue, is in full substance as follows: Promissory note dated Tucson, Arizona, September 21, 1929, Loan No. 6, amount \$10,000, signed Overland Hotel and Investment Company by A. C. Shreve, Vice-President, M. E. Olson, Assistant Secretary, seal affixed, payable to W. S. Millener on September 21, 1934, at the Consolidated National Bank of Tucson, with 8% interest; endorsed Wm. S. Millener.

JAMES M. SHUMWAY,

called as a witness on behalf of the Government, testified:

I reside at Prescott, Arizona. I resided in Mesa, Arizona, during 1929, 1930 and 1931. I know the defendants J. H. Shreve and A. C. Shreve. I met them at the Phoenix office of the Security Building and Loan Association in 1930. I was office manager at Mesa of the Security Building and Loan Association during 1930 and '31.

Mr. Peterson: I will ask that that deed be marked for identification.

(The document referred to was marked Government's Exhibit No. 125 for identification).

Mr. Peterson: I also ask that these be marked.

(The documents referred to were marked Government's Exhibits 126, 127 and 128 for identification).

Mr. Peterson: I offer in evidence at this time, your Honor, an exemplified copy of a deed from the Arizona Holding Company to James M. Shumway.

Mr. Hardy: May it please your Honor, we object to the introduction of Government's Exhibit No. 125 for identification for the reason that it appears to be an exemplified copy of a warranty deed recorded in the office of the Recorder of Maricopa County, Arizona. Do I assume, Mr. Peterson, that the exemplified copy [378] is offered under the provisions of the——

Mr. Peterson: Of the Federal Statute.

Mr. Hardy: Of the Federal Statute?

(Testimony of James M. Shumway.)

Mr. Peterson: And the State.

Mr. Hardy: The Code of 1928?

Mr. Peterson: And also the Federal Statute.

Mr. Hardy: We object, your Honor, for the reason the Federal Statute has no application to State records, and only applies to records of the Federal Government, or the officers of the Federal Government, and for the further reason the exemplified copy is not admissible under the provisions of the Arizona Code of 1928. It would not be admissible under the rule in the Federal Court under the statute which was existing in the Territory of Arizona at the time of the admission of the Territory into statehood on February 14th, 1912; that under the statutes of the Territory then existing there is no provision for the introduction of an exemplified copy of the records of a county recorder without proof that the original record is not within the possession or control of the party offering the document, and for that reason the exhibit is not the best evidence. It is hearsay as to these defendants; that only in the absence of a showing as required by the law existing at the time of the admission of the Territory into statehood, either the original only could be introduced, or of proof that the original is not in the control or possession of the party offering it.

The Court: Overrule the objection.

Mr. Hardy: Exception.

Government's Exhibit 125 was admitted in evidence. [379]

(Testimony of James M. Shumway.)

GOVERNMENT'S EXHIBIT 125,

which, abstracted to the issue, is in full substance as follows: Exemplified copy of Warranty Deed dated December 20, 1930, executed by Arizona Holding Corporation by D. H. Shreve, President, R. F. Watt, Secretary, to Jas. M. Shumway, conveying Lot 3 in Block 2 of Goldman's Addition to the Town of Tempe, recorded on map or plat thereof of record in the office of the County Recorder of Maricopa County, Arizona, in Book 1 of Maps at page 49 thereof; acknowledged by D. H. Shreve and R. F. Watt as President and Secretary respectively before E. F. Young, Notary Public, December 20, 1930; filed and recorded at request of Arizona Title Guaranty and Trust Company May 12, 1931, W. H. Linville, County Recorder.

The witness continuing: That is my signature on Government's Exhibits 126 and 127 for identification.

Mr. Peterson: We offer them in evidence.

Government's Exhibits 126 and 127 were admitted in evidence.

GOVERNMENT'S EXHIBIT 126,

which, abstracted to the issue, is in full substance as follows: Realty Mortgage dated December 20, 1930, executed as Jas. M. Sumway and acknowledged before E. F. Young, Notary Public, on same date, mortgaging to Security Building and Loan Associa-

(Testimony of James M. Shumway.)

tion Lot 3 in Block 2 of Goldman's Addition to the Town of Tempe, recorded on map or plat thereof of record in the office of the County Recorder of Maricopa County, Arizona, in Book 1 of Maps at page 49 thereof, to secure payment of promissory note dated December 20, 1930, executed by Jas. M. Shumway to Security Building and Loan Association, for the sum of \$11,800.00, payable in monthly installments of \$125.00 each, with interest on unpaid balance at the rate of 8.4% per annum; recorded in the office of the County Recorder of Maricopa County, Arizona, May 12, 1931, at request of Security [380] Building and Loan Association.

GOVERNMENT'S EXHIBIT 127,

which, abstracted to the issue, is in full substance as follows: Promissory Note dated December 20, 1930, executed by Jas. M. Shumway to Security Building and Loan Association, in the amount of \$11,800.00, payable in monthly installments of \$125.00 each, with interest from date on the unpaid balance at the rate of 8.4% per annum. Word "Paid" written on face of note.

The witness continuing: When I signed these instruments all these typewritten places in Government's Exhibit 127 were in blank. I signed the note in blank, and when I signed Government's Exhibit 126 it was in blank. I was not present when the mortgage was acknowledged. At the time I signed Government's Exhibits 126 and 127, being a

(Testimony of James M. Shumway.)

note and mortgage, I did not know that any property had been deeded to me. I am the James M. Shumway mentioned in Government's Exhibit 125. At the time I signed the note and mortgage in blank, I did not know this property had been deeded to me. I did not endorse on the back the check which is Government's Exhibit 79 for identification, nor the check which is Government's Exhibit 80 for identification. I am the same James M. Shumway mentioned in the deed which is Government's Exhibit 128.

Mr. Peterson: We offer an exemplified copy of a deed from James M. Shumway to the Arizona Holding Company.

The Court: Conveying the same piece of property?

Mr. Peterson: Yes.

Mr. Hardy: We object to the introduction of Government's Exhibit 128 for identification for the same reason as we objected to the introduction of Government's Exhibit 125.

The Court: Same ruling.

Mr. Hardy: Exception. [381]

Government's Exhibit 128 was admitted in evidence.

GOVERNMENT'S EXHIBIT 128,

which, abstracted to the issue, is in full substance as follows: Exemplified copy Warranty Deed executed by Jas. M. Shumway November 7, 1931,

(Testimony of James M. Shumway.)

acknowledged on same date before Eben E. Lane, Notary Public, conveying to Arizona Holding Corporation Lot 3 in Block 2, of Goldman's Addition to the Town of Tempe, recorded on map or plat thereof of record in the office of the County Recorder of Maricopa County, Arizona, in Book 1 of Maps at page 49 thereof; filed and recorded at request of Arizona Holding Corporation November 13, 1931.

The witness continuing: I received no money from this mortgage which I have identified.

Government's Exhibit 125 was read to the jury by the United States Attorney.

Mr. Flynn: Government's Exhibit 127 is identical with the promissory note, a copy of which I read in conjunction with the last exhibit, except that it has marked across the face of it in red "paid".

The witness continuing: With reference to Government's Exhibit 127, and to the inscription on that note "paid", I never paid anything to recover that note. That word was written on there after I received the note back. I was not paid anything for deed back. Government's Exhibit 128, being the deed from me to the Arizona Holding Company. That deed was given to me after the Building and Loan closed, when I went over one morning to check in my business, the papers in Mesa, I called Dan Shreve to the door by telephone from the Adams Hotel, and asked him if the note and mortgage had been used that he asked me to sign some time before

(Testimony of James M. Shumway.)

that. He said yes. I asked for how much and he said \$11,800, and it would be necessary for me to deed back to the Building and Loan some property at Tempe before I could get that note and [382] mortgage. I went over to the County Recorder's office and looked it up and saw where the property was located and went to Tempe and looked at the property and came back and told him I would sign this in order to get these papers back. I did not get any money when I signed the note and mortgage in blank. I never got any money at all from this deal.

Cross Examination

I signed Government's Exhibit 126 in blank, which is the mortgage I have testified about. I don't know when Miss Young took my acknowledgment to it. She was not present when I signed it. I didn't appear before Miss Young to acknowledge this instrument. C. F. Young is the same Miss Young whom I have seen here. I know her signature. This signature is very familiar. I do not believe I am well enough acquainted with her signature to say whether or not it is her signature. I was manager of the Mesa office of the Security Building and Loan Association. That has been eight or nine years ago and I am not well enough acquainted with her signature to say positively that it is or is not her signature. I remember all the other details very well but I would hesitate to say whether or not this is her signature. Miss Young gave me some instructions with regard to the business of the Security Building and Loan

(Testimony of James M. Shumway.)

Association. Most of them were from the Shreves. First Archie, the first man I contacted, then Dan and also Jesse. As an employee I received my first instructions from the Security Building and Loan Association, Arizona Holding Company and Century Investment Trust from A. C. Shreve. I began to work for the company in the summer of 1930 and worked until the doors closed. During all that time I was manager of the Mesa office except when I took care of my business in Prescott. I had a summer business in Prescott. I took instructions from Archie Shreve until he returned to San Diego and Dan Shreve took his place. I don't remember when Dan Shreve took his place. As I remember, it was about October, 1930. This mortgage is dated the 20th day of December, 1930. Dan [383] Shreve was running the Security Building and Loan Association at the date of this mortgage. The transaction pertaining to this mortgage and note and warranty deed which I have identified was with Dan Shreve. My transaction on this deal was only with Dan Shreve and that was in December, 1930. I recall in mind the date of December 20, 1930 and Dan Shreve had been running the business of the Security Building and Loan Association about two or three months before that date, as I recall it. It didn't go back until March, 1930. I am not positive but I don't think it did, because I did not go to work until I was contacted about July or August, 1930. I am not sure that Dan Shreve took charge of

(Testimony of James M. Shumway.)

the Security Building and Loan Association two or three months before I signed these instruments or negotiated this transaction. It is only a guess. I went to work for the Security Building and Loan Association in the summer of 1930. I first met Archie Shreve in the summer of 1930 and met Glen Perkins at the same time. I believe I met Archie Shreve first. They were both in the office at Phoenix at the same time. My first line of work was interesting people in the Security Building and Loan Association and Century Investment Trust in Mesa. I began to work originally for the company in Mesa and opened the office there. I can't give you the date I opened that office. I can't give you the month I opened that office. I worked in the Mesa district some time before we opened an office. I met Archie Shreve first and it was on the next trip Jesse made from San Diego to Phoenix that I met him. I don't remember just when that was. I do not know of my own knowledge whether Jesse Shreve ever made a trip from San Diego to Phoenix. I was told that. I don't remember when it was that I first met him. I don't know that Dan Shreve took charge of the business of the Security Building and Loan Association in February or March, 1930. I don't know that he did not take charge of it at that time either. I won't state positively that I did not go to work for the Security Building and Loan Association until July or August, [384] 1930. I can remember all other details in connection with this transaction but can't

(Testimony of James M. Shumway.)

remember when I went to work for the Security Building and Loan Association. I testified at the last trial of this case about four years ago. At that trial I was asked this question: "Now, Mr. Shumway, when you went to work for the Security Building and Loan Association, I will ask you *when* or not you received any instructions from anyone with reference to your duties and getting the business", and you answered, "Yes, sir." And I *was* also asked this question: "From whom?" And your answer, "First Mr. Ames and Mr. Archie Shreve?" (The witness): Yes, I believe so. I have not mentioned Mr. Ames' name today. Mr. Ames was the man that asked me if I would work for the company. I don't know his connection with it and have never heard from him since. Mr. Ames told me the possibilities. As far as instructions for getting accounts, they were given to me by the Shreves later. At the time these documents were signed about which I have testified, besides Dan Shreve there were in the Phoenix office of the Security Building and Loan Association Miss Young and C. F. Watt; I don't recall Glen O. Perkins. I have heard of Glen Perkins. I have known him since 1930. I first met him in the Phoenix office of the Security Building and Loan Association. I knew then and I know now that he was an officer and director of the Security Building and Loan Association. I had no business dealings with Mr. Perkins. Mine was entirely with Archie Shreve. That was previous to the time that Dan